

MONTANA LEGISLATIVE HISTORY

Chapter 773 19 91

Bill H \_\_\_\_\_ S 436

Original bill & history X c

H. Committee on Tax & Finance

Hearing Date(s) 4/10 X c

4/12 X c

4/15 X c

\_\_\_\_\_ c

\_\_\_\_\_ c

Date Out

\_\_\_\_\_ c

S. Committee on Tax & Finance

Hearing Date(s) 3/23 X c

3/23 X c

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Did this bill originate in an interim committee? \_\_\_\_\_ Yes / No

Committee \_\_\_\_\_

Report \_\_\_\_\_

SENATE BILL NO. 436

INTRODUCED BY B. BROWN  
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

FEBRUARY 19, 1991

INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

FIRST READING.

MARCH 23, 1991

COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 25, 1991

PRINTING REPORT.

MARCH 26, 1991

SECOND READING, DO PASS.

MARCH 27, 1991

ENGROSSING REPORT.

THIRD READING, PASSED.  
AYES, 47; NOES, 2.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 27, 1991

INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

FIRST READING.

APRIL 13, 1991

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

APRIL 16, 1991

SECOND READING, CONCURRED IN AS  
AMENDED.

APRIL 17, 1991

THIRD READING, CONCURRED IN.  
AYES, 78; NOES, 22.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 17, 1991

RECEIVED FROM HOUSE.

APRIL 18, 1991

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED.

APRIL 19, 1991

CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 20, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 23, 1991

CONFERENCE COMMITTEE REPORTED.

IN THE HOUSE

APRIL 25, 1991

CONFERENCE COMMITTEE  
REPORT REJECTED.

IN THE SENATE

APRIL 29, 1991

SECOND READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

THIRD READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

IN THE HOUSE

APRIL 29, 1991

ON MOTION, PREVIOUS ACTION  
RECONSIDERED.

CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *436*  
 2 INTRODUCED BY *Rob Brown*  
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT RESTRUCTURING THE  
 6 PROPERTY TAX CLASSIFICATION SYSTEM BY CONSOLIDATING CLASSES;  
 7 ELIMINATING CLASS TWELVE PROPERTY AND INCLUDING TRAILERS AND  
 8 MOBILE HOMES IN CLASS FOUR PROPERTY; ELIMINATING CLASS  
 9 EIGHTEEN (NONPRODUCTIVE MINING CLAIMS), CLASS NINETEEN  
 10 (NONPRODUCTIVE REAL ESTATE), AND CLASS TWENTY  
 11 (OUT-OF-PRODUCTION AGRICULTURAL LAND AND TIMBERLAND), ALL OF  
 12 WHICH BECOME TAXABLE AS CLASS FOUR PROPERTY; CONSOLIDATING  
 13 RAILROAD PROPERTY AND AIRLINE PROPERTY INTO ONE CLASS;  
 14 DELETING THE FORMULA FOR COMPUTING THE VALUE OF OTHER  
 15 COMMERCIAL PROPERTY NECESSARY FOR TAXATION OF RAILROAD  
 16 PROPERTY AND AIRLINE PROPERTY BY DELETING NET AND GROSS  
 17 PROCEEDS; DELETING IN CLASS SIX PROPERTY THE SEPARATE  
 18 PROVISION FOR MALTING BARLEY FACILITIES; AMENDING SECTIONS  
 19 7-13-2527, 15-1-111, 15-6-134, 15-6-136, 15-6-141, 15-6-144,  
 20 15-6-145, 15-8-205, 15-10-402, 15-10-412, 15-16-611, AND  
 21 67-3-204, MCA; REPEALING SECTIONS 15-6-142, 15-6-144,  
 22 15-6-147, 15-6-148, 15-6-149, 15-6-150, 15-6-153, 15-6-154,  
 23 AND 15-6-155, MCA; AND PROVIDING AN APPLICABILITY DATE."  
 24  
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:



1 **Section 1.** Section 7-13-2527, MCA, is amended to read:

2 "7-13-2527. List of property owners. (1) A copy of the  
 3 order creating the district shall be delivered to the county  
 4 assessor of each county within the district.

5 (2) The assessor shall, on or before August 1 of any  
 6 given year, prepare and certify a list of all persons owning  
 7 class four, ~~class twelve~~, or class fourteen eleven property  
 8 within such district and deliver a copy of such list to the  
 9 board of trustees of said district."

10 **Section 2.** Section 15-1-111, MCA, is amended to read:

11 "15-1-111. Reimbursement to local governments and  
 12 schools -- duties of department and county treasurer --  
 13 statutory appropriation. (1) (a) On or before May 1, 1990,  
 14 the department of revenue shall remit to the county  
 15 treasurer of each county 30% of the reimbursement amount  
 16 specified in subsection (1)(b), as computed by the  
 17 department. The department shall base the reimbursement on  
 18 the reduction in personal property tax revenues due to the  
 19 reduction in personal property tax rates for class eight  
 20 property, as provided for in 15-6-138, and any reduction in  
 21 taxes based upon recalculation of the effective tax rate for  
 22 property in 15-6-145 and ~~15-6-147~~. The reimbursement basis  
 23 must also include loss of personal property tax revenue due  
 24 to the reclassification of new industrial property from  
 25 class five to class eight with the reduced tax rate. The

INTRODUCED BILL

-2-

SB 436

determination of the reimbursement basis must be made in the year in which the reclassification is made.

(b) The reimbursement revenue must be based on the county's taxable value and mill levies for tax year 1989.

(2) Prior to September 1, 1990, the department's agent in the county shall supply the following information to the department for each taxing jurisdiction within the county:

(a) the number of mills levied in the jurisdiction for taxable year 1989;

(b) the number of mills levied in the jurisdiction for taxable year 1990;

(c) the total taxable valuation for taxable years 1989 and 1990, reported separately for each year, of all personal property not secured by real property; and

(d) the total taxable valuation for taxable years 1989 and 1990, reported separately for each year, of all personal property secured by real property.

(3) After receipt of the information from its agent, the department shall calculate the amount of revenue lost to each taxing jurisdiction, using current year mill levies, due to the annual reduction in personal property tax rates set forth in 15-6-138, and any reduction in taxes based upon recalculation of the effective tax rate for property in 15-6-145 and--15-6-147. The department shall total the amounts for all taxing jurisdictions within the county.

(4) For taxable year 1990 and for each year thereafter, the department shall remit to the county treasurer the base amount of revenue reimbursable, determined pursuant to subsection (3), as follows:

(a) on or before November 30, 1990, and on or before each November 30 thereafter, the department shall remit 50% of the base amount of the revenue reimbursable to the county; and

(b) on or before May 31, 1991, and on or before each May 31 thereafter, the department shall remit 50% of the base amount of the revenue reimbursable to the county.

(5) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement to each taxing jurisdiction in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as current year mill levies on personal property taxes are distributed.

(6) For the purposes of this section, "taxing jurisdiction" means local governments and includes school districts, each municipality with tax increment financing, and the state of Montana.

(7) The amounts necessary for the administration of this section are statutorily appropriated, as provided in 17-7-502, from the general fund to reimburse school

1 districts and local governments for reductions in tax rates  
2 on personal property."

3 **Section 3.** Section 15-6-134, MCA, is amended to read:

4 "15-6-134. Class four property -- description --  
5 taxable percentage. (1) Class four property includes:

6 (a) all land except that specifically included in  
7 another class;

8 (b) all improvements, including trailers or mobile  
9 homes used as a residence, except those specifically  
10 included in another class;

11 (c) the first \$80,000 or less of the market value of  
12 any improvement on real property, including trailers or  
13 mobile homes, and appurtenant land not exceeding 5 acres  
14 owned or under contract for deed and actually occupied for  
15 at least 10 months a year as the primary residential  
16 dwelling of any person whose total income from all sources  
17 including otherwise tax-exempt income of all types is not  
18 more than \$10,000 for a single person or \$12,000 for a  
19 married couple, as adjusted according to subsection  
20 (2)(b)(ii);

21 (d) all golf courses, including land and improvements  
22 actually and necessarily used for that purpose, that consist  
23 of at least 9 holes and not less than 3,000 lineal yards.

24 (2) Class four property is taxed as follows:

25 (a) Except as provided in 15-24-1402 or 15-24-1501,

1 property described in subsections (1)(a) and (1)(b) is taxed  
2 at 3.86% of its market value.

3 (b) (i) Property described in subsection (1)(c) is  
4 taxed at 3.86% of its market value multiplied by a  
5 percentage figure based on income and determined from the  
6 following table:

| 7  | Income          | Income          | Percentage |
|----|-----------------|-----------------|------------|
| 8  | Single Person   | Married Couple  | Multiplier |
| 9  | \$ 0 - \$ 1,000 | \$ 0 - \$ 1,200 | 0%         |
| 10 | 1,001 - 2,000   | 1,201 - 2,400   | 10%        |
| 11 | 2,001 - 3,000   | 2,401 - 3,600   | 20%        |
| 12 | 3,001 - 4,000   | 3,601 - 4,800   | 30%        |
| 13 | 4,001 - 5,000   | 4,801 - 6,000   | 40%        |
| 14 | 5,001 - 6,000   | 6,001 - 7,200   | 50%        |
| 15 | 6,001 - 7,000   | 7,201 - 8,400   | 60%        |
| 16 | 7,001 - 8,000   | 8,401 - 9,600   | 70%        |
| 17 | 8,001 - 9,000   | 9,601 - 10,800  | 80%        |
| 18 | 9,001 - 10,000  | 10,801 - 12,000 | 90%        |

19 (ii) The income levels contained in the table in  
20 subsection (2)(b)(i) must be adjusted for inflation annually  
21 by the department of revenue. The adjustment to the income  
22 levels is determined by:

23 (A) multiplying the appropriate dollar amount from the  
24 table in subsection (2)(b)(i) by the ratio of the PCE for  
25 the second quarter of the year prior to the year of

1 application to the PCE for the second quarter of 1986; and

2 (B) rounding the product thus obtained to the nearest  
3 whole dollar amount.

4 (iii) "PCE" means the implicit price deflator for  
5 personal consumption expenditures as published quarterly in  
6 the Survey of Current Business by the bureau of economic  
7 analysis of the U.S. department of commerce.

8 (c) Property described in subsection (1)(d) is taxed at  
9 one-half the taxable percentage rate established in  
10 subsection (2)(a).

11 (3) After July 1, 1986, no adjustment may be made by  
12 the department to the taxable percentage rate for class four  
13 property until a revaluation has been made as provided in  
14 15-7-111.

15 (4) Within the meaning of comparable property as  
16 defined in 15-1-101, property assessed as commercial  
17 property is comparable only to other property assessed as  
18 commercial property, and property assessed as other than  
19 commercial property is comparable only to other property  
20 assessed as other than commercial property."

21 **Section 4.** Section 15-6-136, MCA, is amended to read:

22 "15-6-136. Class six property -- description -- taxable  
23 percentage. (1) Class six property includes:

24 (a) livestock and other species of domestic animals and  
25 wildlife raised in domestication or a captive environment,

1 except for cats, dogs, and other household pets not raised  
2 for profit;

3 (b) items of personal property intended for rent or  
4 lease in the ordinary course of business, provided each item  
5 of personal property satisfies all of the following:

6 (i) the full and true value of the personal property is  
7 less than \$5,000;

8 (ii) the personal property is owned by a business whose  
9 primary business income is from rental or lease of personal  
10 property to individuals wherein no one customer of the  
11 business accounts for more than 10% of the total rentals or  
12 leases during a calendar year; and

13 (iii) the lease of the personal property is generally on  
14 an hourly, daily, or weekly basis; and

15 ~~(c) machinery and equipment used in a malting barley~~  
16 ~~facility; and~~

17 ~~(d) (c) machinery and equipment used in canola seed oil~~  
18 ~~processing facilities if:~~

19 (i) the operators of such facilities employ a minimum  
20 of 15 full-time employees; and

21 (ii) a canola seed oil processing facility locates in  
22 the state of Montana after July 25, 1989.

23 ~~(2) "Malting barley facility" means a facility the~~  
24 ~~principal purpose of which is to malt malting barley. The~~  
25 ~~term does not apply to a facility the principal purpose of~~

1 ~~which-is-to-store,--mix,--blend,--transport,--transfer,--or~~  
 2 ~~otherwise--do--anything--with--malting--barley,--except-malt~~  
 3 ~~malting-barley. However,--any--machinery--or--equipment--the~~  
 4 ~~principal--purpose--of--which--is--to--store,--mix,--blend,~~  
 5 ~~transport,--transfer,--or--otherwise-handle-malting--barley--or~~  
 6 ~~other-machinery-or-equipment-that-is-used-in-or-is-otherwise~~  
 7 ~~an--integral-part-of-a-facility-that-malts-malting-barley-is~~  
 8 ~~machinery-or-equipment-of-a-malting-barley-facility-for--the~~  
 9 ~~purposes-of-this-section.~~

10 {3}(2) "Canola seed oil processing facility" means a  
 11 facility that:

12 (a) extracts oil from canola seeds, refines the crude  
 13 oil to produce edible oil, formulates and packages the  
 14 edible oil into food products, or engages in any one or more  
 15 of those processes; and

16 (b) employs at least 15 employees in a full-time  
 17 capacity.

18 {4}(3) Class six property is taxed at 4% of its market  
 19 value."

20 **Section 5.** Section 15-6-141, MCA, is amended to read:

21 "15-6-141. Class eleven nine property -- description --  
 22 taxable percentage. (1) Class eleven nine property includes:

23 (a) centrally assessed electric power companies'  
 24 allocations, including, if congress passes legislation that  
 25 allows the state to tax property owned by an agency created

1 by congress to transmit or distribute electrical energy,  
 2 allocations of properties constructed, owned, or operated by  
 3 a public agency created by the congress to transmit or  
 4 distribute electric energy produced at privately owned  
 5 generating facilities (not including rural electric  
 6 cooperatives);

7 (b) allocations for centrally assessed natural gas  
 8 companies having a major distribution system in this state;  
 9 and

10 (c) centrally assessed companies' allocations except:

11 (i) electric power and natural gas companies' property;

12 (ii) property owned by cooperative rural electric and  
 13 cooperative rural telephone associations and classified in  
 14 class five;

15 (iii) property owned by organizations providing  
 16 telephone communications to rural areas and classified in  
 17 class seven;

18 (iv) railroad transportation property included in class  
 19 fifteen twelve; and

20 (v) airline transportation property included in class  
 21 seventeen twelve.

22 (2) Class eleven nine property is taxed at 12% of  
 23 market value."

24 **Section 6.** Section 15-6-144, MCA, is amended to read:

25 "15-6-144. Class fourteen eleven property --



description -- taxable percentage. (1) Class fourteen eleven property includes all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(2). Class fourteen eleven property includes 1 acre of real property beneath the agricultural improvements. The 1 acre shall be valued at market value.

(2) Class fourteen eleven property is taxed at 80% of the taxable percentage applicable to class four property."

**Section 7.** Section 15-6-145, MCA, is amended to read:

"15-6-145. Class fifteen twelve property -- description -- taxable percentage. (1) Class fifteen twelve property includes all railroad transportation property as described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it read on January 1, 1986, and all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read on January 1, 1986.

(2) For the taxable tax year beginning January 1, 1986 1992, and for each taxable tax year thereafter, class fifteen twelve property is taxed at the percentage rate "R", to be determined by the department as provided in subsection (3), or 12%, whichever is less.

(3)  $R = A/B$  where:

(a) A is the total statewide taxable value of all commercial property, except class fifteen twelve property,

as commercial property is described in 15-1-101(1)(d), ~~including class 1 and class 2 property~~; and

(b) B is the total statewide market value of all commercial property, except class fifteen twelve property, as commercial property is described in 15-1-101(1)(d), including class 1 and class 2 property.

(4) (a) For the taxable year beginning January 1, 1986, and for every taxable year thereafter, the department shall conduct a sales assessment ratio study of all commercial and industrial real property and improvements. The study must be based on:

(i) assessments of such property as of January 1 of the year for which the study is being conducted; and

(ii) a statistically valid sample of sales using data from realty transfer certificates filed during the same taxable year or from the immediately preceding taxable year, but only if a sufficient number of certificates is unavailable from the current taxable year to provide a statistically valid sample.

(b) The department shall determine the value-weighted mean sales assessment ratio "M" for all such property and reduce the taxable value of property described in subsection (4) only, by multiplying the total statewide taxable value of property described in subsection (4)(a) by "M" prior to calculating "A" in subsection (3)(a).

(c) The adjustment referred to in subsection (4)(b) will be made beginning January 1, 1986, and in each subsequent tax year to equalize the railroad taxable values.

(5) For the purpose of complying with the Railroad Revitalization and Regulatory Reform Act of 1976, as it read on January 1, 1986, the rate "R" referred to in this section is the equalized average tax rate generally applicable to commercial and industrial property, except class ~~fifteen~~ twelve property, as commercial property is defined in 15-1-101(1)(d)."

**Section 8.** Section 15-8-205, MCA, is amended to read:

"15-8-205. Initial assessment of class ~~twelve~~ four ~~trailer and mobile home~~ property -- when. The county assessor shall assess all class ~~twelve~~ four ~~trailer and mobile home~~ property immediately upon arrival in the county if the taxes have not been previously paid for that year in another county in Montana."

**Section 9.** Section 15-10-402, MCA, is amended to read:

"15-10-402. Property tax limited to 1986 levels. (1) Except as provided in subsections (2) and (3), the amount of taxes levied on property described in 15-6-133, 15-6-134, ~~and 15-6-136, 15-6-142, and 15-6-144~~ may not, for any taxing jurisdiction, exceed the amount levied for taxable year 1986.

(2) The limitation contained in subsection (1) does not

apply to levies for rural improvement districts, Title 7, chapter 12, part 21; special improvement districts, Title 7, chapter 12, part 41; elementary and high school districts, Title 20; or bonded indebtedness.

(3) New construction or improvements to or deletions from property described in subsection (1) are subject to taxation at 1986 levels.

(4) As used in this section, the "amount of taxes levied" and the "amount levied" mean the actual dollar amount of taxes imposed on an individual piece of property, notwithstanding an increase or decrease in value due to inflation, reappraisal, adjustments in the percentage multiplier used to convert appraised value to taxable value, changes in the number of mills levied, or increase or decrease in the value of a mill."

**Section 10.** Section 15-10-412, MCA, is amended to read:

"15-10-412. Property tax limited to 1986 levels -- clarification -- extension to all property classes. Section 15-10-402 is interpreted and clarified as follows:

(1) The limitation to 1986 levels is extended to apply to all classes of property described in Title 15, chapter 6, part 1.

(2) The limitation on the amount of taxes levied is interpreted to mean that, except as otherwise provided in this section, the actual tax liability for an individual

property is capped at the dollar amount due in each taxing unit for the 1986 tax year. In tax years thereafter, the property must be taxed in each taxing unit at the 1986 cap or the product of the taxable value and mills levied, whichever is less for each taxing unit, except in a taxing unit that levied a tax in tax years 1983 through 1985 but did not levy a tax in 1986, in which case the actual tax liability for an individual property is capped at the dollar amount due in that taxing unit for the 1985 tax year.

(3) The limitation on the amount of taxes levied does not mean that no further increase may be made in the total taxable valuation of a taxing unit as a result of:

(a) annexation of real property and improvements into a taxing unit;

(b) construction, expansion, or remodeling of improvements;

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

(e) reclassification of property;

(f) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(g) transfer of property from tax-exempt to taxable status;

(h) revaluations caused by:

(i) cyclical reappraisal; or

(ii) expansion, addition, replacement, or remodeling of improvements; or

(i) increases in property valuation pursuant to 15-7-111(4) through (8) in order to equalize property values annually.

(4) The limitation on the amount of taxes levied does not mean that no further increase may be made in the taxable valuation or in the actual tax liability on individual property in each class as a result of:

(a) a revaluation caused by:

(i) construction, expansion, replacement, or remodeling of improvements that adds value to the property; or

(ii) cyclical reappraisal;

(b) transfer of property into a taxing unit;

(c) reclassification of property;

(d) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(e) annexation of the individual property into a new taxing unit;

(f) conversion of the individual property from tax-exempt to taxable status; or

(g) increases in property valuation pursuant to 15-7-111(4) through (8) in order to equalize property values

1 annually.

2 (5) Property in classes four~~---twelve~~ and fourteen  
3 eleven is valued according to the procedures used in 1986,  
4 including the designation of 1982 as the base year, until  
5 the reappraisal cycle beginning January 1, 1986, is  
6 completed and new valuations are placed on the tax rolls and  
7 a new base year designated, if the property is:

8 (a) new construction;

9 (b) expanded, deleted, replaced, or remodeled  
10 improvements;

11 (c) annexed property; or

12 (d) property converted from tax-exempt to taxable  
13 status.

14 (6) Property described in subsections (5)(a) through  
15 (5)(d) that is not class four~~---class---twelve~~, or class  
16 fourteen eleven property is valued according to the  
17 procedures used in 1986 but is also subject to the dollar  
18 cap in each taxing unit based on 1986 mills levied.

19 (7) The limitation on the amount of taxes, as clarified  
20 in this section, is intended to leave the property appraisal  
21 and valuation methodology of the department of revenue  
22 intact. Determinations of county classifications, salaries  
23 of local government officers, and all other matters in which  
24 total taxable valuation is an integral component are not  
25 affected by 15-10-401 and 15-10-402 except for the use of

1 taxable valuation in fixing tax levies. In fixing tax  
2 levies, the taxing units of local government may anticipate  
3 the deficiency in revenues resulting from the tax  
4 limitations in 15-10-401 and 15-10-402, while understanding  
5 that regardless of the amount of mills levied, a taxpayer's  
6 liability may not exceed the dollar amount due in each  
7 taxing unit for the 1986 tax year unless:

8 (a) the taxing unit's taxable valuation decreases by 5%  
9 or more from the 1986 tax year. If a taxing unit's taxable  
10 valuation decreases by 5% or more from the 1986 tax year, it  
11 may levy additional mills to compensate for the decreased  
12 taxable valuation, but in no case may the mills levied  
13 exceed a number calculated to equal the revenue from  
14 property taxes for the 1986 tax year in that taxing unit.

15 (b) a levy authorized under Title 20 raised less  
16 revenue in 1986 than was raised in either 1984 or 1985, in  
17 which case the taxing unit may, after approval by the voters  
18 in the taxing unit, raise each year thereafter an additional  
19 number of mills but may not levy more revenue than the  
20 3-year average of revenue raised for that purpose during  
21 1984, 1985, and 1986;

22 (c) a levy authorized in 50-2-111 that was made in 1986  
23 was for less than the number of mills levied in either 1984  
24 or 1985, in which case the taxing unit may, after approval  
25 by the voters in the taxing unit, levy each year thereafter

1 an additional number of mills but may not levy more than the  
2 3-year average number of mills levied for that purpose  
3 during 1984, 1985, and 1986.

4 (8) The limitation on the amount of taxes levied does  
5 not apply to the following levy or special assessment  
6 categories, whether or not they are based on commitments  
7 made before or after approval of 15-10-401 and 15-10-402:

- 8 (a) rural improvement districts;
- 9 (b) special improvement districts;
- 10 (c) levies pledged for the repayment of bonded
- 11 indebtedness, including tax increment bonds;
- 12 (d) city street maintenance districts;
- 13 (e) tax increment financing districts;
- 14 (f) satisfaction of judgments against a taxing unit;
- 15 (g) street lighting assessments;
- 16 (h) revolving funds to support any categories specified
- 17 in this subsection (8);
- 18 (i) levies for economic development authorized pursuant
- 19 to 90-5-112(4); and
- 20 (j) elementary and high school districts.

21 (9) The limitation on the amount of taxes levied does  
22 not apply in a taxing unit if the voters in the taxing unit  
23 approve an increase in tax liability following a resolution  
24 of the governing body of the taxing unit containing:

- 25 (a) a finding that there are insufficient funds to

1 adequately operate the taxing unit as a result of 15-10-401  
2 and 15-10-402;

3 (b) an explanation of the nature of the financial  
4 emergency;

5 (c) an estimate of the amount of funding shortfall  
6 expected by the taxing unit;

7 (d) a statement that applicable fund balances are or by  
8 the end of the fiscal year will be depleted;

9 (e) a finding that there are no alternative sources of  
10 revenue;

11 (f) a summary of the alternatives that the governing  
12 body of the taxing unit has considered; and

13 (g) a statement of the need for the increased revenue  
14 and how it will be used.

15 (10) (a) The limitation on the amount of taxes levied  
16 does not apply to levies required to address the funding of  
17 relief of suffering of inhabitants caused by famine,  
18 conflagration, or other public calamity.

19 (b) The limitation set forth in this chapter on the  
20 amount of taxes levied does not apply to levies to support a  
21 city-county board of health as provided in Title 50, chapter  
22 2, if the governing bodies of the taxing units served by the  
23 board of health determine, after a public hearing, that  
24 public health programs require funds to ensure the public  
25 health. A levy for the support of a local board of health

1 may not exceed the 5-mill limit established in 50-2-111.

2 (11) The limitation on the amount of taxes levied by a  
3 taxing jurisdiction subject to a statutory maximum mill levy  
4 does not prevent a taxing jurisdiction from increasing its  
5 number of mills beyond the statutory maximum mill levy to  
6 produce revenue equal to its 1986 revenue.

7 (12) The limitation on the amount of taxes levied does  
8 not apply to a levy increase to repay taxes paid under  
9 protest in accordance with 15-1-402."

10 **Section 11.** Section 15-16-611, MCA, is amended to read:

11 "15-16-611. Reduction of property tax for property  
12 destroyed by natural disaster. (1) The department of revenue  
13 shall, upon showing by a taxpayer that some or all of the  
14 improvements on his real property or a trailer or mobile  
15 home ~~as described in 15-6-142~~ have been destroyed to such an  
16 extent that such improvements have been rendered unsuitable  
17 for their previous use by natural disaster, adjust the  
18 taxable value on the property, accounting for the  
19 destruction.

20 (2) The county treasurer shall adjust the tax due and  
21 payable for the current year on the property under 15-16-102  
22 as provided in subsection (3) of this section.

23 (3) To determine the amount of tax due for destroyed  
24 property, the county treasurer shall:

25 (a) multiply the amount of tax levied and assessed on

1 the original taxable value of the property for the year by  
2 the ratio that the number of days in the year that the  
3 property existed before destruction bears to 365; and

4 (b) multiply the amount of tax levied and assessed on  
5 the adjusted taxable value of the property for the remainder  
6 of the year by the ratio that the number of days remaining  
7 in the year after the destruction of the property bears to  
8 365.

9 (4) This section does not apply to delinquent taxes  
10 owed on the destroyed property for a year prior to the year  
11 in which the property was destroyed.

12 (5) For the purposes of this section, "natural  
13 disaster" includes but is not limited to fire, flood,  
14 earthquake, or wind."

15 **Section 12.** Section 67-3-204, MCA, is amended to read:

16 "67-3-204. Fee in lieu of tax on registered aircraft --  
17 decal. (1) Except as provided in subsection (3), aircraft  
18 required to be registered in Montana are subject to a fee.  
19 The registration fee is in lieu of property tax.

20 (2) The department shall issue a decal to the owner of  
21 the aircraft required to be registered at the time of  
22 payment of the registration fee in lieu of tax, as provided  
23 in 67-3-201. No aircraft subject to a fee in lieu of tax may  
24 be operated in this state unless there is displayed on the  
25 aircraft a decal as visual proof that the fee in lieu of tax

1 has been paid for the aircraft and that the aircraft is  
2 registered for the current year.

3 (3) Aircraft that meet the description of property  
4 described in ~~15-6-147~~ 15-6-145 are exempt from the fee  
5 imposed by subsection (1). Aircraft subject to the fee in  
6 lieu of tax are exempt from all other taxation."

7 NEW SECTION. Section 13. Repealer. Sections 15-6-142,  
8 15-6-144, 15-6-147, 15-6-148, 15-6-149, 15-6-150, 15-6-153,  
9 15-6-154, and 15-6-155, MCA, are repealed.

10 NEW SECTION. Section 14. Coordination instruction. (1)  
11 If House Bill 340 is passed by the 52nd legislature and  
12 approved by the governor, then the code commissioner is  
13 instructed, at the time of codification of that enactment,  
14 to change references in that enactment from class thirteen  
15 property to class ten property.

16 (2) The code commissioner is instructed to change  
17 references to classes of property in enactments of the 52nd  
18 legislature to conform to the classifications established in  
19 [this act].

20 NEW SECTION. Section 15. Applicability. [This act]  
21 applies to tax years beginning on or after January 1, 1992.

-End-

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0436, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act restructuring the property tax classification system by consolidating classes; eliminating class twelve property and including trailers and mobile homes in class four property; eliminating class eighteen (nonproductive mining claims), class nineteen (nonproductive real estate), and class twenty (out-of-production agricultural land and timberland), all of which become taxable as class four property; consolidating railroad property and airline property into one class; deleting the formula for computing the value of other commercial property necessary for taxation of railroad property and airline property by deleting net and gross proceeds; deleting in class six property the separate provision for malting barley facilities; and providing an applicability date;

ASSUMPTIONS:

1. Property currently in class 18 (nonproductive mining claims) switching to class 4 would be appraised on a market value basis, resulting in no revenue impact.
2. Property currently in class 19 (nonproductive real estate less than 20 acres) switching to class 4 would decrease in appraised value reflecting the conditions that preclude development of the property, resulting in no revenue impact.
3. The tax rate for Railroads and Airlines would increase 0.07 percentage points due to removing classes 1 and 2 from the rate formula, resulting in an increase in taxable valuation of \$43,093 and an increase of \$14,383 in property tax revenue.

FISCAL IMPACT:

The proposal would slightly increase state and local property tax revenues beginning in FY93, \$259 for the universities, \$1,724 for state equalization, \$3,845 for counties, \$8,095 for schools, and \$460 for cities and towns.

TECHNICAL NOTES:

The proposal deletes classes 1 and 2 only partially from the tax rate formula for Railroads and Airlines. Reference to classes 1 and 2 are deleted in section 7(3)(a) but not in section 7(3)(b).

The title, and Section 13 (repealer) incorrectly show that 15-6-144 is being repealed. In Section 9, the reference to 15-6-144 should not be stricken.

 2-20-91  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR                      DATE  
Office of Budget and Program Planning

1506 Brown                      Feb. 21/91  
\_\_\_\_\_  
ROBERT (BOB) BROWN, PRIMARY SPONSOR                      DATE  
Fiscal Note for SB0436, as introduced                      **SB 436**



CHAIRMAN--MIKE HALLIGAN  
SECRETARY--JILL ROHYANS  
NORMAL SCHEDULE==> SITE: RM 413/415

COMMITTEE--(S) TAXATION  
DAYS: M,T,W,T,F TIME: 8:00 A.M.

= REFER =  
BILL === = DATE === LATEST ACTION/DATE=====

|        |                                                                      |                                                                                                                          |
|--------|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| SB 412 | R 02/18 (S) TRANSMITTED TO GOVERNOR<br>SPONSOR: CRIPPEN, BRUCE       | 04/24<br>TITLE-REVISE SALES ASSESSMENT LAW; 3-YEAR REAPPRAISALS STARTING IN 1994                                         |
| SB 416 | R 02/18 (S) TRANSMITTED TO GOVERNOR<br>SPONSOR: WILLIAMS, BOB        | 04/23<br>TITLE-ALLOWING A TAX CREDIT FOR THE INSTALLATION OF A GEOTHERMAL DEVICE                                         |
| SB 416 | R 03/18 (S) TRANSMITTED TO GOVERNOR<br>SPONSOR: WILLIAMS, BOB        | 04/23<br>TITLE-ALLOWING A TAX CREDIT FOR THE INSTALLATION OF A GEOTHERMAL DEVICE                                         |
| SB 428 | R 02/18 (S) SENT TO ENROLLING<br>SPONSOR: NATHE, DENNIS              | 04/25<br>TITLE-ALLOCATE MOTOR FUEL TAXES TO CERTAIN RESERVATIONS                                                         |
| SB 429 | 02/18 (S) TABLED IN COMMITTEE<br>SPONSOR: JACOBSON, JUDY             | 03/13 (S) TAXATION<br>TITLE-REVISE BONDING PROVISION FOR TAX INCREMENT FINANCING                                         |
| SB 435 | R 02/19 (H) CONFERENCE COM APPOINTED<br>SPONSOR: BROWN, BOB          | 04/20 MCCARTHY (CHAIR); KADAS; THOMAS<br>TITLE-REFERENDUM ON 5% INCOME AND CORPORATE SURTAX TO SUPPORT UNIVERSITY SYSTEM |
| SB 436 | AR 02/19 (H) 3RD READ CONF COM RPT REJECT<br>SPONSOR: BROWN, BOB     | 04/25 REPORT NO. 1<br>TITLE-REVISE AND RESTRUCTURE PROPERTY TAX CLASSIFICATIONS                                          |
| SB 438 | R 02/19 (S) SIGNED BY GOVERNOR<br>SPONSOR: BROWN, BOB                | 04/25<br>TITLE-EXEMPT FROM BENEFICIAL USE TAX RAILROAD TRACKS OWNED BY THE UNITED STATES                                 |
| SB 445 | 02/20 (S) 2ND READ GOV'S AMD CONCURRED<br>SPONSOR: DOHERTY, STEVE    | 04/25<br>TITLE-UNIFORM REVIEW PROCESS FOR MOST DEPT. OF REVENUE ADMINISTERED TAXES                                       |
| SB 446 | AR 02/20 (S) TABLED IN COMMITTEE<br>SPONSOR: REA, JACK               | 04/01 (S) TAXATION<br>TITLE-INCREASE VIDEO GAMBLING TAX TO BE USED TO INCREASE LIVE HORSERACING PURSES                   |
| SB 450 | R 02/20 (S) TABLED IN COMMITTEE<br>SPONSOR: HALLIGAN, MIKE           | 03/22 (S) TAXATION<br>TITLE-DIFFERENT INCOME RATES FOR JOINT, HEAD OF HOUSEHOLD, SEPARATE, AND SINGLE                    |
| SB 454 | R 02/21 (H) 2ND READ CONCUR MOTION FAILED<br>SPONSOR: DOHERTY, STEVE | 04/16<br>TITLE-PROVIDE COURT-ORDERED FUNDING OF NECESSARY DISTRICT COURT FUNDING                                         |
| SB 457 | R 03/08 (S) TABLED IN COMMITTEE<br>SPONSOR: DOHERTY, STEVE           | 04/02 (S) TAXATION<br>TITLE-REVISE LAWS ON METAL MINES TAXATION                                                          |
| SB 458 | R 03/08 (S) ADVERSE COM RPT ADOPTED<br>SPONSOR: THAYER, GENE         | 03/27 (S) TAXATION<br>TITLE-PRIVATIZE STATE LIQUOR SALES                                                                 |
| SB 459 | 03/08 (H) TABLED IN COMMITTEE<br>SPONSOR: VAN VALKENBURG, FRED       | 04/12 (H) TAXATION<br>TITLE-LOCAL OPTION REPEAL OF I-105                                                                 |
| SB 460 | R 03/08 (H) TABLED IN COMMITTEE<br>SPONSOR: SVRCEK, PAUL             | 04/12 (H) TAXATION<br>TITLE-GENERALLY REVISE TAXATION OF PROPERTY                                                        |
| SB 461 | AR 03/08 (S) HEARING<br>SPONSOR: WATERMAN, MIGNON                    | 04/24 ROOM 325; 8:00 A.M.<br>TITLE-QUARTERLY PAYMENT OF ESTIMATED INDIVIDUAL INCOME TAXES--PENALTY                       |
| SB 462 | R 03/08 (S) SIGNED BY PRESIDENT<br>SPONSOR: MAZUREK, JOE             | 04/25<br>TITLE-REVISE TELEPHONE COMPANY LICENSE TAX                                                                      |
| SB 463 | R 03/11 (S) ADVERSE COM RPT ADOPTED                                  | 04/01 (S) TAXATION                                                                                                       |

Senator Brown replied he did not think that would happen in the near term. It may very well be the case in the long term and there are certainly no methods of assuring it would not happen.

Closing by Sponsor:

Senator Brown closed by noting there are advantages and disadvantages to this approach. This is an alternative which will help and will give the voters the chance to express their support. Montana students are scoring in the top 3%-5% in SAT scores and we have the best educated work force in the country in Montana. We have problems competing economically, but we have always had a strong educational system. The Commission for the 90's voted to greatly increase the support for higher education in the state. He said the legislature needs to consider this alternative and let the people of the state vote to support our universities.

HEARING ON SENATE BILL 436

Presentation and Opening Statement by Sponsor:

Senator Brown, District 2, sponsor, said this is a housekeeping bill which would consolidate property tax classes from the current 17 in existing law to 12 and remove classes 1 and 2 from the railroad and airline formula.

Proponents' Testimony:

Judy Rippingale, Deputy Director for Tax Policy, Department of Revenue, presented her testimony in support of the bill (Exhibit #2).

Opponents' Testimony:

Tom Hopgood, Montana Association of Realtors, said he wished to express concern more than opposition. The changes from Class 19, which is taxed at 2%, to Class 4, taxed at 3.86%. The fiscal note said the switch to Class 4 would "decrease in appraised value". He said there is nothing he can find which would guarantee a decrease in the appraised value. He asked the committee to consider that concern as they work on the bill.

Questions From Committee Members:

Senator Eck asked Ms. Rippingale to respond to Mr. Hopgood's concern.

Ms. Rippingale said Class 19 is an extremely small Class with extremely small parcels. The property has no development potential and the value placed on it in Class 4 would lower substantially and there would be no tax increase.

Closing by Sponsor:

Senator Brown closed.

HEARING ON HOUSE BILL 153

Presentation and Opening Statement by Sponsor:

Senator Brown, District 2, presented the bill on behalf of Representative Ream who was delayed in a House committee. The bill has been introduced at the request of the Department of Revenue and would simply conform the filing dates for the workers' compensation payroll tax to the filing dates for the state income withholding tax.

Proponents' Testimony:

Jeff Miller, Income and Miscellaneous Tax Division Director, DOR, said the bill just makes the quarterly due date of the workers' compensation payroll tax consistent with the dates employers must submit their state income withholding tax. It would streamline the reporting and compilation process both for the Department and for the employers.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

Senator Brown closed.

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 3/13

52<sup>nd</sup> LEGISLATIVE SESSION

| NAME                | PRESENT | ABSENT | EXCUSED |
|---------------------|---------|--------|---------|
| SEN. HALLIGAN       | X       |        |         |
| SEN. ECK            | X       |        |         |
| SEN. BROWN          | X       |        |         |
| SEN. DOHERTY        | X       |        |         |
| SEN. GAGE           | X       |        |         |
| SEN. HARP           | X       |        |         |
| SEN. KOEHNKE        | X       |        |         |
| SEN. THAYER         | X       |        |         |
| SEN. TOWE           | X       |        |         |
| SEN. VAN VALKENBURG | X       |        |         |
| SEN. YELLOWTAIL     | X       |        |         |
|                     |         |        |         |
|                     |         |        |         |
|                     |         |        |         |
|                     |         |        |         |

Each day attach to minutes.

3/13/91

Location

SB435 SB429 SB 436 HB 338  
HB 153

44B 153

(Please leave prepared statement with Secretary)

Amendments to Senate Bill 436  
1st Reading Copy

SENATE TAXATION

EXHIBIT NO. 2

DATE 3/13/91

BILL NO. SB 436

Prepared by The Department of Revenue  
February 27, 1991

The department's amendments 1, and 3 through 5 are to correct technical drafting errors. The title indicates § 15-6-144, MCA, is being both amended and repealed. Section 15-6-144, MCA, is actually only being amended so the title and the repealer section are corrected by striking the reference to § 15-6-144, MCA by amendments #1 and #5.

The amendment to § 15-10-402, MCA, in Section 9 of the bill shows § 15-6-144, MCA, as being repealed. Since § 15-6-144, MCA, is not repealed it is restored to the current language in Section 9 by amendment #4.

The bill eliminates the taxable value of class 1 and class 2 property from the formula for computing the tax rate for railroad and airline property. The reference to class 1 and class 2 property is deleted from Section 7(3)(a), but is inadvertently left in Section 7(3)(b). Amendment #3 makes the two subsections consistent by eliminating the obsolete reference to class 1 and class 2 property.

Amendments 2 and 6 change the applicability date of the act from 1992 to 1991. The amendment to formula addresses a problem with the current law. The calculation of the taxable value for railroads requires the inclusion of the taxable value of airlines. The calculation of the taxable value for airlines requires the inclusion of the taxable value of railroads. By combining the two section together as is done in this bill the problem is eliminated. Since the problem exists in the current law, it should be corrected for this year rather than waiting to correct it next year.

1. Title, line 21.  
Following: "15-6-143,"  
Strike: "15-6-144"
2. Page 11,  
Following: line 18  
Strike: "1992"  
Insert: "1991"
3. Page 12, line 5.  
Following: "15-1-101(1)(d)"  
Strike: ", including class 1 and class 2 property"
4. Page 13,  
Following: line 21  
Strike: "and 15-6-136"

Insert: "15-6-136, and 15-6-144"

5. Page 23,  
Following: line 7  
Strike: "15-6-144,"

6. Page 23, line 20.  
Following: "Section 15."  
Strike: "Applicability. [This act] applies to tax years beginning on or after January 1, 1992."  
Insert: "Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to taxable years beginning on or after January 1, 1991."

# SB 436 - Property Tax Reform

## Proposed and Current Classes

### Proposed

| <u>Class</u> | <u>Rate</u> | <u>Description</u>                 |
|--------------|-------------|------------------------------------|
| Class 1      | 100.000%    | Net Proceeds                       |
| Class 2      | 3.000%      | Gross Proceeds                     |
| Class 3      | 30.000%     | Ag Land                            |
| Class 4      | 3.860%      | Real Property                      |
| Class 5      | 3.000%      | New Industry and Pollution Control |
| Class 6      | 4.000%      | Livestock                          |
| Class 7      | 8.000%      | Independent Telephone              |
| Class 8      | 9.000%      | Personal Property                  |
| Class 9      | 12.000%     | Utilities                          |
| Class 10     | 3.840%      | Timber                             |
| Class 11     | 3.088%      | Farmsteads                         |
| Class 12     | 7.560%      | Railroads and Airlines             |

### Current

| <u>Class</u> | <u>Rate</u> | <u>Description</u>                                                                                                                                                             |
|--------------|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Class 1      | 100.000%    | Net Proceeds                                                                                                                                                                   |
| Class 2      | 3.000%      | Gross Proceeds                                                                                                                                                                 |
| Class 3      | 30.000%     | Ag Land                                                                                                                                                                        |
| Class 4      | 3.860%      | Residential and Commercial Real                                                                                                                                                |
| Class 12     | 3.860%      | Mobile Homes                                                                                                                                                                   |
| Class 18     | 30.000%     | Nonproductive Mining Claims<br><i>(Appraisal method changes from productivity to market value basis, no revenue impact to property).</i>                                       |
| Class 19     | 2.000%      | Nonproductive Real Less Than 20 ac.<br><i>(Assume appraised values will be decreased to reflect conditions which preclude development of the property, no revenue impact).</i> |
| Class 20     | 3.860%      | Out of Production Ag and Timber                                                                                                                                                |
| Class 5      | 3.000%      | New Industry and Pollution Control                                                                                                                                             |
| Class 6      | 4.000%      | Livestock                                                                                                                                                                      |
| Class 7      | 8.000%      | Independent Telephone                                                                                                                                                          |
| Class 8      | 9.000%      | Personal Property                                                                                                                                                              |
| Class 11     | 12.000%     | Utilities                                                                                                                                                                      |
| Class 13     | 3.840%      | Timber                                                                                                                                                                         |
| Class 14     | 3.088%      | Farmsteads                                                                                                                                                                     |
| Class 15     | 7.490%      | Railroads                                                                                                                                                                      |
| Class 17     | 7.490%      | Airlines                                                                                                                                                                       |

EXHIBIT NO. 2

DATE 3/13/91

BILL NO. SB 436



# SB 436 – Property Tax Reform

## Impact on Current Property Classes

| Current<br>Class           | Current<br>Tax Revenue | Proposed<br>Tax Revenue | Difference |
|----------------------------|------------------------|-------------------------|------------|
| Class 1 Net Proceeds       | \$3,626,521            | \$3,626,521             | \$0        |
| Class 2 Gross Proceeds     | \$3,027,295            | \$3,027,295             | \$0        |
| Class 3 Agric. Land        | \$38,842,780           | \$38,842,780            | \$0        |
| Class 4 Resid.             | \$150,267,820          | \$150,267,820           | \$0        |
| Class 4 Comm.              | \$70,413,533           | \$70,413,533            | \$0        |
| Class 5 Co-ops             | \$6,040,704            | \$6,040,704             | \$0        |
| Class 6 Livestock          | \$6,997,060            | \$6,997,060             | \$0        |
| Class 7 Ind. Telephone     | \$253,979              | \$253,979               | \$0        |
| Class 8 Pers. Property     | \$66,407,995           | \$66,407,995            | \$0        |
| Class 11 Utilities         | \$96,224,237           | \$96,224,237            | \$0        |
| Class 12 Mobile Homes      | \$5,301,014            | \$5,301,014             | \$0        |
| Class 13 Timber Land       | \$2,027,722            | \$2,027,722             | \$0        |
| Class 14 Farmsteads        | \$16,265,710           | \$16,265,710            | \$0        |
| Class 15 Railroads **      | \$15,979,352           | \$16,128,692            | \$0        |
| Class 17 Airlines **       | \$1,538,888            | \$1,553,270             | \$14,382   |
| Class 18 Mining Claims     | \$2,922                | \$2,922                 | \$0        |
| Class 19 Non-Prod. Land    | \$29,945               | \$29,945                | \$0        |
| Class 20 Out of Production | \$1,478                | \$1,478                 | \$0        |
| Total                      | \$483,248,954          | \$483,412,676           | \$14,382   |

\* Change is based on negotiated settlement – no direct dollar impact.

\*\* Tax rate increase from 7.49% to 7.56 % is due to removing class 1 and class 2 property from the rate formula.

Recommendation and Vote:

Senator Doherty moved SB 445 Do Pass As Amended. The motion CARRIED unanimously.

EXECUTIVE ACTION ON SENATE BILL 436Amendments, Discussion, and Votes:

Senator Doherty submitted proposed amendments to the bill (Exhibit #4).

Jeff Martin said the amendments put Class 14 property, farmsteads and agricultural improvements, into Class 4 property which would require the one acre of real property currently valued as agricultural to be valued at market value.

Senator Doherty moved the amendments. He said "a house is a house is a house" and it should be taxed at 3.86% the same as his house is taxed at 3.86%.

Senator Brown said there is some history here. A farm unit is an agricultural unit which includes the house, the buildings, as well as the acreage. If there is a separation of the house from the acreage, the unit has been destroyed. Appraisers have arbitrarily assessed agricultural homes differently than homes in cities due to that classification.

Senator Towe said the legislature put that into law about ten years ago. It was determined that a house in the country does not have the same value as a house in town because there is not the market for it there. Therefore, the house value has to be reduced to a certain extent to reflect that the market value is not the same.

Senator Harp said the house would be assessed at the right level for the location. He said there is a lot of abuse going on with the little ranchettes and 20 acre agriculture exemptions that, in reality, have little to do with agriculture at all. People in urban areas are not being treated fairly in comparison.

Senator Gage said his conversations with appraisers in the field and with some of the DOR representatives led him to the understanding that even though statute says market value for appraisal, the cost basis is being used. The property without the land does not have the value. He said there is no doubt abuse going on by those who are charading as farm people with the very small acreages. However, in eastern Montana and along the Highline where people are extremely rural and isolated, the homes certainly should not be appraised on market value.

Senator Van Valkenburg said this is just a housekeeping bill and these amendments would make a significant difference. The legislature should be looking at overall property tax reform. Senator Svrcek's bill would be a better vehicle for this provision. The biggest problem in property taxes is in personal property and commercial property. Farmsteads may need to be adjusted in that respect.

The motion to adopt Senator Doherty's amendments FAILED on a roll call vote (attached).

Senator Towe moved to adopt amends as per Exhibit #5.

Jeff Martin said the amendments would continue to require the Department of Revenue to include net and gross proceeds in the calculation of the taxable value of railroad and airline property.

Senator Harp said there is a House Bill coming over which would be a better vehicle to address net and gross proceeds.

Denis Adams, Director, DOR, said there is so little value left in Class 1 and Class 2 since the flat tax was adopted that a small decrease in the railroad taxes is all that will occur. It would have no significant impact at all.

The motion on Senator Towe's amendments FAILED with only Senator Towe voting yes.

Mr. Martin presented the amendments as proposed by DOR (Exhibit #6). The amendment to the homestead property was inadvertently included in the repealer and it is removed from that section. There are other housekeeping amendments which are minor technical adjustments.

Senator Brown moved the amendments.

The motion CARRIED unanimously.

#### Recommendation and Vote:

Senator Brown moved SB 436 Do Pass As Amended.

Senator Van Valkenburg said he is still concerned about the Class 18 and 19 properties. He said assuming the values are adjusted to be revenue neutral he wanted DOR to explain how they arrived at that assumption.

Judy Rippingale responded that the DOR property tax people said moving the Class 18 and 19 property would cause it to have the lowest possible value and classification. She said this is non-productive agricultural land and some mining land and the value would decrease from the current value if anything.

The motion CARRIED with Senator Van Valkenburg voting no.

EXECUTIVE ACTION ON SENATE BILL 462

Amendments, Discussion, and Votes:

Jeff Martin presented a proposed amendment which would, on page 2, line 11, restore the \$250 limit that is in existing law.

Senator Towe moved the amendment.

The motion CARRIED unanimously.

Senator Williams had requested an amendment which would affect the itemization.

Senator Thayer wondered how this would fit into the rate base.

Senator Van Valkenburg said if we adopt the amendment that Senator Williams wants there would be a storm of complaints from telephone customers across the state because they would think they are getting a new 1.8% tax. In reality, this is tax they are already paying.

Senator Gage said most of the waiver of penalty bills have stricken "neglect" (re language page 5, line 23). He said most bills require interest on the penalty and this bill strikes interest on the penalty. He said that would be fair if we go through the codes and strike interest on the penalty for everyone. The effective date would mean the second quarter of 1991 would pay tax because that return is due by the end of July. He said he didn't think that was the intent of the bill.

Jeff Miller, DOR, said it could be done however the committee would like. He said changing the rate stream would not make create much difference.

Senator Towe said there should be an applicability date as there is only an effective date in the bill as it stands. He moved to amend the bill with a new Section 7 which would state "this act shall apply to all taxes collected on or after July 1, 1991".

The motion CARRIED unanimously.

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 3/23/91

53<sup>rd</sup> LEGISLATIVE SESSION

| NAME                | PRESENT | ABSENT | EXCUSED |
|---------------------|---------|--------|---------|
| SEN. HALLIGAN       | X       |        |         |
| SEN. ECK            | X       |        |         |
| SEN. BROWN          | X       |        |         |
| SEN. DOHERTY        | X       |        |         |
| SEN. GAGE           | X       |        |         |
| SEN. HARP           | X       |        |         |
| SEN. KOEHNKE        |         |        | X       |
| SEN. THAYER         | X       |        |         |
| SEN. TOWE           | X       |        |         |
| SEN. VAN VALKENBURG | X       |        |         |
| SEN. YELLOWTAIL     | X       |        |         |
|                     |         |        |         |
|                     |         |        |         |
|                     |         |        |         |
|                     |         |        |         |

Each day attach to minutes.

Amendments to Senate Bill No. 436  
First Reading Copy

Requested by Senator Doherty  
For the Committee on Taxation

Prepared by Jeff Martin  
March 13, 1991

1. Title, line 8.

Following: "ELIMINATING"

Insert: "CLASS FOURTEEN (AGRICULTURAL IMPROVEMENTS),"

2. Title, line 19.

Strike: "15-6-144,"

3. Page 5.

Following: line 20

Insert: "(d) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(2), including 1 acre of real property beneath the agricultural improvements. The 1 acre must be valued at market value."

Renumber: subsequent subsection

4. Page 6, line 1.

Following: "(1)(a)"

Insert: ", "

Strike: "and"

Following: "(1)(b)"

Insert: ", and (1)(d)"

5. Page 7, line 8.

Strike: "(1)(d)"

Insert: "(1)(e)"

6. Page 10, line 24 through page 11, line 8.

Strike: section 6 in its entirety

Renumber: subsequent sections

7. Page 17, line 2.

Strike: "classes"

Insert: "class"

Strike: "and"

8. Page 17, line 3.

Strike: "eleven"

9. Page 17, line 15.

Strike: "or class"

10. Page 17, line 16.

Strike: "eleven"

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 3/23/91 SB Bill No. 436 Time \_\_\_\_\_

| NAME                | YES | NO |
|---------------------|-----|----|
| SEN. HALLIGAN       |     | X  |
| SEN. BROWN          |     | X  |
| SEN. ECK            | X   |    |
| SEN. GAGE           |     | X  |
| SEN. VAN VALKENBURG |     | X  |
| SEN. HARP           | X   |    |
| SEN. YELLOWTAIL     |     | X  |
| SEN. THAYER         | X   |    |
| SEN. TOWE           |     | X  |
| SEN. KOEHNKE        |     |    |
| SEN. DOHERTY        | X   |    |
|                     |     |    |

Bill Ryhans  
Secretary

Sen. Mike Halligan  
Chairman

Motion: by Senator Doherty to amend SB436  
as per exhibit #4

Amendments to Senate Bill No. 436  
First Reading Copy

Requested by Senator Towe  
For the Committee on Taxation

Prepared by Jeff Martin  
March 18, 1991

1. Title, lines 14 through 17.

Strike: "DELETING" on line 14 through "PROCEEDS;" on line 17

2. Page 12, line 2.

Following: "property"

Insert: ", including class 1 and class 2 property"



Amendments to Senate Bill No. 436  
First Reading Copy

Requested by Department of Revenue  
For the Committee on Taxation

Prepared by Jeff Martin  
March 18, 1991

1. Title, line 21.  
Strike: "15-6-144,"
2. Page 11, line 19.  
Strike: "1992"  
Insert: "1991"
3. Page 12, line 6.  
Strike: "including class 1 and class 2 property"
4. Page 13, line 22.  
Strike: "and"  
Following: "~~15-6-144~~"  
Insert: ", and 15-6-144"
5. Page 23, line 8.  
Strike: "15-6-144,"
6. Page 23, line 21.  
Strike: "1992"  
Insert: "1991"

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 23, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 436 (first reading copy -- white), respectfully report that Senate Bill No. 436 be amended and as so amended do pass:

1. Title, line 21.  
Strike: "15-6-144,"

2. Title, line 23.  
Following: "AN"  
Insert: "IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE"

3. Page 11, line 19.  
Strike: "1992"  
Insert: "1991"

4. Page 12, lines 5 and 6.  
Strike: ", " on line 5 through "property" on line 6

5. Page 13, line 22.  
Strike: "and"  
Following: "~~15-6-144~~"  
Insert: ", and 15-6-144"

6. Page 23, line 8.  
Strike: "15-6-144,"

7. Page 23, line 20.  
Strike: "Applicability"  
Insert: "Effective date -- applicability"  
Following: "[This act]"  
Insert: "is effective on passage and approval and"

8. Page 23, line 21.  
Following: "applies"  
Insert: "retroactively, within meaning of 1-2-109,"  
Strike: "1992"  
Insert: "1991"

Signed: \_\_\_\_\_

Mike Halligan, Chairman

3-91  
\_\_\_\_\_  
And. Coord.

\_\_\_\_\_  
Sec. of Senate

631203SC.511

CHAIRMAN--DAN HARRINGTON  
NORMAL SCHEDULE==> SITE: ROOM 437

DAYS: M,T,W,T,F

TIME: 8:00 A.M.

SECRETARY--MONA SPAULDING

| --BILL NO--          | REFER DATE | HEARING DATE | CONSIDERATION DATES | COMMITTEE ACTION                                                             | REREFERRED TO COMM | DATE OUT |
|----------------------|------------|--------------|---------------------|------------------------------------------------------------------------------|--------------------|----------|
| SB0384               | 3/26       | 4/03         |                     | CONCUR                                                                       |                    | 4/11     |
| LYNCH, J.D.          |            |              |                     | REFERENDUM TO IMPOSE A STATEWIDE 2-MILL LEVY FOR VOCATIONAL & TECH EDUCATION |                    |          |
| SB0390               | 3/04       | 4/05         |                     | CONCUR AS AMENDED                                                            |                    | 4/13     |
| VAN VALKENBURG, FRED |            |              |                     | MAKE CERTAIN PERSONAL PROPERTY ELIGIBLE FOR PROPERTY TAX RELIEF              |                    |          |
| SB0411               | 3/27       | 4/10         |                     | TABLED ON 04/12                                                              |                    |          |
| FRITZ, HARRY         |            |              |                     | EXPAND USE OF BED TAX BY HISTORICAL SOCIETY                                  |                    |          |
| SB0412               | 3/26       | 4/03         |                     | CONCUR AS AMENDED                                                            |                    | 4/13     |
| CRIPPEN, BRUCE       |            |              |                     | PROVIDE FOR THE EQUALIZATION OF RESIDENTIAL PROPERTY                         |                    |          |
| SB0415               | 3/16       | 4/09         |                     | CONCUR AS AMENDED                                                            |                    | 4/13     |
| VAUGHN, ELEANOR      |            |              |                     | STATE PARKS RECREATIONAL VEHICLE FEE FOR RV FACILITIES & SERVICES AT ST PARK |                    |          |
| SB0416               | 4/02       | 4/10         |                     | CONCUR AS AMENDED                                                            |                    | 4/13     |
| WILLIAMS, BOB        |            |              |                     | ALLOW A TAX CREDIT FOR THE INSTALLATION OF A GEOTHERMAL DEVICE               |                    |          |
| SB0428               | 4/04       | 4/10         |                     | TABLED ON 04/12                                                              |                    |          |
| NATHE, DENNIS        |            |              |                     | ALLOCATE MOTOR FUEL TAXES TO CERTAIN RESERVATIONS                            |                    |          |
| SB0435               | 4/04       | 4/11         |                     | CONCUR AS AMENDED                                                            |                    | 4/13     |
| BROWN, BOB           |            |              |                     | REFERENDUM ON 5% INCOME AND CORPORATE SURTAX TO SUPPORT UNIVERSITY SYSTEM    |                    |          |
| SB0436               | 3/27       | 4/10         |                     | CONCUR AS AMENDED                                                            |                    | 4/13     |
| BROWN, BOB           |            |              |                     | RESTRUCTURE PROPERTY TAX CLASSIFICATION BY CONSOLIDATING CLASSES             |                    |          |
| SB0438               | 3/04       | 4/09         |                     | CONCUR                                                                       |                    | 4/13     |
| BROWN, BOB           |            |              |                     | EXEMPT FROM BENEFICIAL USE TAX RAILROAD TRACKS OWNED BY THE UNITED STATES    |                    |          |
| SB0445               | 3/27       | 4/10         |                     | CONCUR AS AMENDED                                                            |                    | 4/13     |
| DOHERTY, STEVE       |            |              |                     | PROVIDE UNIFORM TAX REVIEW PROCESS FOR MOST TAXES MANAGED BY DEPT OF REVENUE |                    |          |

are excluded from the bill in order to simplify the schedules.

REP. THOMAS asked what other one-time expenses could be covered by this bill. SEN. WATERMAN said in addition to the university system, the parks futures program, the women's prison, and perhaps the Lewis and Clark Interpretive Center could be considered.

REP. THOMAS asked how the bill can raise so much money if it's not a tax increase. SEN. WATERMAN said the bill provides a penalty for people who don't follow the law; it will also allow funds to be made available earlier.

Closing Statement:

SEN. WATERMAN said Montana's tax system does not stand the test of fairness. Law mandates that everyone pay income tax on set dates, and working people have no choice but to comply with that law, as the money is automatically withheld from their paychecks. Independently employed people are allowed to ignore the law because there is no penalty, and this cannot continue.

HEARING ON SB 436

Opening Statement:

SENATOR BOB BROWN explained the bill, which was requested by the Department of Revenue. SB 436 restructures the property tax classification system. There are presently 17 active classes of property in Montana; this bill eliminates two of the obsolete classes and combines several of the other classes. If the bill passes, there will be 12 classes of property for taxation purposes in the state. The number of classes of property has fluctuated somewhat over time, and there have been many questions as to why there are so many classes. The bill attempts to simplify the system somewhat, and could probably be worked over by the property tax subcommittee to correct any flaws.

Proponents:

Kay Foster, Billings Chamber of Commerce, spoke in favor of the bill, and asked the committee to consider amending it. Currently, Class 20 property (eliminated by this bill) is defined as "out-of-production agricultural land and timberland." Current statute also includes all real and personal property integrally related and devoted exclusively to the processing of agricultural and timber projects in the class. If the land has been out of production for 12 months, or has been acquired in an arms-length transaction (foreclosure or bankruptcy), DOR can reduce the assessment value by 25% each year the plant continues to be out of production, until the market value is reduced to salvage. After it reaches a salvage value, it may be considered as "new and expanding" industry. The Pierce Packing Plant in Billings is currently under this reduction program. Hopefully the

subcommittee can amend this portion of the statute into the bill so the Chamber of Commerce can continue its project.

Opponents:

Dan Whyte for Ward Shanahan, Stillwater Mining Company, noted that one of the "obsolete" classes of property which the bill will eliminate is Class 18 property. Nonproductive mining claims are not obsolete, and should be placed into Class 3 property, as HB 1004 attempted to do. Exploration and development are important to the mining industry; the exploration part of mining is by definition "nonproductive." Eliminating this class of property would stymie any exploration or development of mining claims, seeing as there would no longer be a tax break for this class of property. Consolidating nonproductive mining claims into Class 3 property also stays with the intent of the legislation in that it will not create a new class, but merely consolidates existing classes.

Brendan Beatty, Montana Association of Realtors, noted that subheading 2 of the fiscal note consolidates Class 19 property (nonproductive real estate) into Class 4, residential property. Currently, nonproductive real estate is taxed at 2% of its market value; residential property is taxed at 3.86% of its market value. This is a substantial raise in tax. By definition, nonproductive real estate is a piece of land that has been precluded from development; the land is not worth much because nothing can be done with it. DOR has said that the property will be appraised down to get rid of the revenue impact; however, the bill does not require this to be done. Such a large increase in tax should be avoided.

Questions:

REP. HOFFMAN asked what the impact of the amendment Mr. Whyte proposed would be. Judy Rippingale, DOR, said the staff will look at all the nonproductive mining claims individually to ensure that they are at the lowest values possible. There may be some land that will actually have a tax increase, but the amount of money raised will be less than \$3000/year.

REP. HOFFMAN asked why Class 18 property was not moved into Class 3, since nonproductive mining claims and nonproductive real estate are virtually the same thing. Ms. Rippingale said the department has no objection to consolidating Class 18 property with Class 3.

Closing Statement:

SEN. BROWN said moving these two classes into Class 3 property would not damage the bill, as the total number of classes would remain the same.

# HOUSE OF REPRESENTATIVES

## TAXATION COMMITTEE

ROLL CALL

DATE

4/10/91

| NAME                          | PRESENT | ABSENT | EXCUSED |
|-------------------------------|---------|--------|---------|
| REP. DAN HARRINGTON           | X       |        |         |
| REP. BEN COHEN, VICE-CHAIRMAN | X       |        |         |
| REP. BOB REAM, VICE-CHAIRMAN  | X       |        |         |
| REP. ED DOLEZAL               | X       |        |         |
| REP. JIM ELLIOTT              | X       |        |         |
| REP. ORVAL ELLISON            | X       |        |         |
| REP. RUSSELL FAGG             | X       |        |         |
| REP. MIKE FOSTER              | X       |        |         |
| REP. BOB GILBERT              | X       |        |         |
| REP. MARIAN HANSON            | X       |        |         |
| REP. DAVID HOFFMAN            | X       |        |         |
| REP. JIM MADISON              | X       |        |         |
| REP. ED MCCAFFREE             | X       |        |         |
| REP. BEA MCCARTHY             | X       |        |         |
| REP. TOM NELSON               | X       |        |         |
| REP. MARK O'KEEFE             | X       |        |         |
| REP. BOB RANEY                | X       |        |         |
| REP. TED SCHYE                | X       |        |         |
| REP. BARRY "SPOOK" STANG      | X       |        |         |
| REP. FRED THOMAS              | X       |        |         |
| REP. DAVE WANZENRIED          | X       |        |         |
|                               |         |        |         |
|                               |         |        |         |

SENATE BILL NO. 436  
INTRODUCED BY B. BROWN

AMENDMENTS OF STILLWATER MINING CO.

APRIL 10, 1991

EXHIBIT 8  
DATE 4/10/91  
HB SB 436

1. Title, line 8  
Following: "property;"  
Strike: " ELIMINATING CLASS EIGHTEEN (NONPRODUCTIVE MINING CLAIMS)"
2. Page 5, line 3  
Following: "property."  
Insert:

"**Section 3.** Section 15-6-133, MCA, is amended to read:

**\*15-6-133. Class three property -- description --**  
**taxable percentage. (1) Class three property includes:**

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for such other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which such improvements are located and that is reasonably

required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(2) Class three property is taxed at the taxable percentage rate "P" of its productive capacity.

(3) Until July 1, 1986, the taxable percentage rate "P" for class three property is 30%.

(4) Prior to July 1, 1986, the department of revenue shall determine the taxable percentage rate "P" applicable to class three property for the revaluation cycle beginning January 1, 1986, as follows:

(a) The director of the department of revenue shall certify to the governor before July 1, 1986, the percentage by which the appraised value of all property in the state classified under class three as of January 1, 1986, has increased due to the revaluation conducted under 15-7-111. This figure is the "certified statewide percentage increase".

(b) The taxable value of property in class three is determined as a function of the certified statewide percentage increase in accordance with the table shown below.

(c) This table limits the statewide increase in taxable valuation resulting from reappraisal to 0%. In calculating the percentage increase, the department may not consider agricultural use changes during calendar year 1985.

(d) The taxable percentage must be calculated by interpolation to coincide with the nearest whole number certified statewide percentage increase from the following table:

| Certified Statewide<br>Percentage Increase | Class Three Taxable<br>Percentage "P" |
|--------------------------------------------|---------------------------------------|
| 0                                          | 30.00                                 |
| 10                                         | 27.27                                 |
| 20                                         | 25.00                                 |
| 30                                         | 23.08                                 |
| 40                                         | 21.43                                 |
| 50                                         | 20.00                                 |

(5) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate "P" until a

4/10/91  
5B 436



# VISITOR'S REGISTER

PLEASE PRINT

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

DISCUSSION ON SB 436

REP. COHEN explained the bill, which reduces the number of property classes to 12. It does not make any significant rate changes, nor does it make any significant changes in statewide taxable value. Nonproductive mining claims had been placed in class 4; they are now in Class 3 property.

Motion/Vote: REP. COHEN moved to adopt Amendments 1-7. Motion carried unanimously.

Mr. Heiman explained the remaining amendments, which provide that nonproductive property will be classified as Class 4 property.

Motion/Vote: REP. COHEN moved to adopt Amendments 8-18. Motion carried unanimously. Exhibit 24

REP. COHEN explained the DOR amendments, which allow single parents to qualify as "heads of households" for the low income property tax credit, and provides that net (not gross) business income be used for the property tax income computation. Exhibit 25

Motion/Vote: REP. COHEN moved to adopt the DOR amendments. Motion carried unanimously.

REP. COHEN explained an additional set of amendments. Exhibit 26 Amendment 4 treats timberland the same way SB 69 treats agricultural land, stating that land cannot be classified as timberland for tax purposes if it does not produce timber for harvest.

REP. REAM spoke in opposition to the amendment. The value of timberland is not limited to the number of trees available for cutting; there are watershed and wildlife values as well. There should be an intermediate category.

REP. COHEN said SB 69, which stated that agricultural land cannot be classified as such if there are covenants prohibiting agricultural activities on the land, passed; this bill applies the same language to timberland.

REP. GILBERT said the amendments will move many property owners from a timberland classification to a commercial recreational classification, which means a substantial property tax increase.

REP. REAM said there is no sense in increasing someone's taxes from 50 cents/acre to \$500/acre, which is what this amendment will do.

Motion/Vote: REP. COHEN moved to adopt Amendment 4. Motion carried 13 to 8. Exhibit 27

REP. COHEN explained Amendment 5. Parcels of land just over 20

acres are presently qualifying for agricultural property tax rates although they are not being used for agricultural purposes. Currently, to qualify for agricultural classification, a property owner must show at least \$1500 income from land less than 20 acres. This bill does not change that. If a parcel of land is at least 20 but less than 40 acres, it must produce \$1500 income plus an additional \$25 per acre or fraction of an acre in excess of 20 acres. This means 40 acres of land must produce at least \$2000, 30 acres must produce \$1750, etc., in order to qualify for agricultural classification. The agricultural community found this figure acceptable. The bill also takes into consideration the possibility of drought or other unintentional harm being done to the property, stating that the previous year's income may be used in such cases. There are many private, residential estates with just over 20 acres of land that are not being used for agricultural purposes, yet are being taxed at the agricultural rate. This puts everyone with genuine agricultural classification at risk.

**REP. THOMAS** spoke in favor of the amendment. It may be a tax increase, but only for people who are not involved in agriculture and are still using that classification for tax purposes. This amendment gets rid of the artificiality of the law, and is a further purification of the greenbelt laws currently in statute.

**REP. REAM** said there are no greenbelt laws in Montana, and this is the problem. Land is either urban residential or agricultural.

**REP. ELLISON** said Montana needs a rural residential class of property. These estates should not be taxed at the agricultural rate, because the property is not being used for agricultural purposes. However, the property owners do not receive all the services they would if they lived in an urban residential area, and should not be taxed at the full residential rate.

**REP. REAM** agreed with **REP. ELLISON**. The Property Tax Subcommittee has made the assumption that anyone living on 21 acres is a wealthy, non-agricultural resident. In Missoula and Flathead Counties there are many loggers and millworkers who are low-income but have managed to buy a small piece of land. This will increase their taxes by 100-200 fold, and will hasten subdivisions because these people will have no alternative but to divide their land into smaller parcels and sell.

**REP. GILBERT** said this bill will raise hundreds of millions of dollars in increased property taxes, and increase some property owners' taxes by 500%. Many members of the committee got elected on the premise that they would not raise taxes, yet are saying nothing when faced with the issue.

**REP. ELLIOTT** said his neighbor is a widow who draws her water by hand and lives on 40 acres of property; he is not about to raise her property taxes.

REP. FOSTER said acreage does not always guarantee worth. Some property in eastern Montana cannot even be used as grazing land.

REP. COHEN said assumptions are being made about the market value of property that should not be made. Rural residential property of over 20 acres could easily be taxed at half the rate of all other residential property. This will give these property owners a break, but not as large a break as is given to agricultural land.

Motion: REP. COHEN moved to change the tax rate of parcels of land over 20 acres not being used for agricultural purposes to one-half the rate of Class 4 property.

REP. GILBERT spoke in opposition to the motion. The last day of the taxation committee hearings is not the right time to propose major changes to Montana's property tax laws. There is no data showing how much this will cost, or who it will affect.

REP. HOFFMAN spoke in favor of the original motion. There are many subdivisions just above 20 acres that were created to get around the original subdivision laws. Many constituents have complained about the tax rates on these property owners. \$1500-2000 is not that much, and will qualify these landowners for agricultural status.

REP. COHEN withdrew his motion.

Motion/Vote: REP. COHEN moved to adopt Amendment 5 as written. Motion carried 12 to 9. Exhibit 28

Motion: REP. O'KEEFE moved to amend SB 436 to provide that the property discussed in Amendment 5 (rural residential lots over 20 and less than 40 acres) be taxed at one-half the rate of property in the same class. This would include timberland as well as agricultural land.

REP. ELLISON said the committee is heading in the right direction by passing this amendment. Montana needs an intermediate property class.

Vote: Motion carried 15 to 6 with REPS. GILBERT, STANG, FOSTER, HANSON, ELLIOTT and NELSON voting no.

Motion/Vote: REP. COHEN MOVED SB 436 BE CONCURRED IN AS AMENDED. Motion carried 14 to 7. Exhibit 29

Motion/Vote: REP. DOLEZAL moved to adopt a resolution authorizing the Revenue Oversight Committee to study the property tax structure and come up with suggestions for reform. Mr. Heiman will draft resolution. Motion carried unanimously.

*Julia*

HOUSE STANDING COMMITTEE REPORT

Corrected Copy

April 15, 1991

Page 1 of 8

Mr. Speaker: We, the committee on Taxation report that Senate Bill 436 (third reading copy -- blue) be concurred in as amended .

Signed: *Dan Harrington*

Dan Harrington, Chairman

Carried by: Rep. Cohen

And, that such amendments read:

(This report corrects the Taxation standing committee report dated April 12, 1991.)

1. Title, line 8.

Following: "PROPERTY;"

Insert: "CLARIFYING THE COMPUTATION OF INCOME FOR PURPOSES OF THE LOW-INCOME PROPERTY TAX CREDIT; PROVIDING THAT AN ELIGIBLE HEAD OF HOUSEHOLD MAY QUALIFY FOR THE LOW-INCOME PROPERTY TAX CREDIT; PROVIDING THAT RURAL RESIDENTIAL PROPERTY BETWEEN 20 AND 40 ACRES IN SIZE BE TAXED AT ONE-HALF THE RATE OF CLASS FOUR PROPERTY;"

2. Title, lines 9 and 10.

Following: "CLAIMS)" on line 9

Strike: ", "

Insert: "BY COMBINING IT WITH CLASS THREE PROPERTY; ELIMINATING"

Following: "ESTATE)" on line 10

Strike: ", "

3. Title, line 11.

Strike: "ALL"

Insert: "BOTH"

4. Title, line 18.

Following: "FACILITIES;"

Insert: "CHANGING THE CRITERIA FOR CLASSIFYING AGRICULTURAL LAND BY REQUIRING \$25 PER ACRE ANNUAL GROSS INCOME FROM AGRICULTURAL PRODUCTION FOR ACRES IN EXCESS OF 20 ACRES BUT LESS THAN 40 ACRES; CHANGING THE CRITERIA FOR CLASSIFYING TIMBERLAND TO PROHIBIT TIMBERLAND CLASSIFICATION IF THE PARCEL IS SUBDIVIDED LAND WITH RESTRICTIONS THAT EFFECTIVELY PROHIBIT TIMBER HARVESTING;"

5. Title, line 19.  
Following: "15-1-111,"  
Insert: "15-6-133,"  
Following: "15-6-141,"  
Insert: "15-6-143,"

6. Title, line 20.  
Following: "15-6-145,"  
Insert: "15-6-155, 15-7-202,"

7. Title, line 22.  
Following: "15-6-153,"  
Insert: "AND"

8. Title, lines 23 and 24.  
Following: "PROVIDING" on line 23  
Strike: "AN IMMEDIATE"

Strike: "DATE" on line 23  
Insert: "DATES,"  
Strike: "AND" on line 24  
Following: "DATE"  
Insert: ", AND A TERMINATION DATE"

9. Page 5.  
Following: line 3.  
Insert: "Section 3. Section 15-6-133, MCA, is amended to read:  
"15-6-133. Class three property -- description -- taxable  
percentage. (1) Class three property includes:  
    (a) agricultural land as defined in 15-7-202;  
    (b) nonproductive patented mining claims outside the limit  
of an incorporated city or town held by an owner for the ultimate  
purpose of developing the mineral interests on the property. For  
the purposes of this subsection (1)(b), the following provisions  
apply:  
    (i) The claim may not include any property that is used for  
residential purposes, recreational purposes as described in 70-  
16-301, or commercial purposes as defined in 15-1-101 or any  
property the surface of which is being used for other than mining  
purposes or has a separate and independent value for such other  
purposes.  
    (ii) Improvements to the property that would not disqualify  
the parcel are taxed as otherwise provided in this title,  
including that portion of the land upon which such improvements  
are located and that is reasonably required for the use of the  
improvements.  
    (iii) Nonproductive patented mining claim property must be  
valued as if the land were devoted to agricultural grazing use  
(2) Class three property is taxed at the taxable percentage

rate "P" of its productive capacity.

(3) Until July 1, 1986, the taxable percentage rate "P" for class three property is 30%.

(4) Prior to July 1, 1986, the department of revenue shall determine the taxable percentage rate "P" applicable to class three property for the revaluation cycle beginning January 1, 1986, as follows:

(a) The director of the department of revenue shall certify to the governor before July 1, 1986, the percentage by which the appraised value of all property in the state classified under class three as of January 1, 1986, has increased due to the revaluation conducted under 15-7-111. This figure is the "certified statewide percentage increase".

(b) The taxable value of property in class three is determined as a function of the certified statewide percentage increase in accordance with the table shown below.

(c) This table limits the statewide increase in taxable valuation resulting from reappraisal to 0%. In calculating the percentage increase, the department may not consider agricultural use changes during calendar year 1985.

(d) The taxable percentage must be calculated by interpolation to coincide with the nearest whole number certified statewide percentage increase from the following table:

| Certified Statewide<br>Percentage Increase | Class Three Taxable<br>Percentage "P" |
|--------------------------------------------|---------------------------------------|
| 0                                          | 30.00                                 |
| 10                                         | 27.27                                 |
| 20                                         | 25.00                                 |
| 30                                         | 23.08                                 |
| 40                                         | 21.43                                 |
| 50                                         | 20.00                                 |

(5) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate "P" until a revaluation has been made as provided in 15-7-111."

Renumber: subsequent sections

10. Page 5, line 18.

Following: "including"

Insert: "net business income or loss and"

11. Page 5, line 20.

Following: "couple"

Insert: "or a head of household"

12. Page 5, line 24.

Strike: "."

Insert: ","

13. Page 5.

Following: line 24

Insert: "(e) contiguous parcels of residential land not within the limits of an incorporated city or town that are larger than 20 acres but less than 40 acres, together with all improvements, including any trailer or mobile home used as a residence;

(f) all real and personal property that:

(i) is integrally related in a single working unit;

(ii) is devoted exclusively to the processing of agricultural or timber products; and

(iii) (A) has not been in production for 12 consecutive months or has been acquired in an arm's-length transaction by an unrelated person, including an acquisition in a foreclosure sale or bankruptcy proceeding; or

(B) has been acquired in a foreclosure or bankruptcy proceeding by a person, as defined in 15-1-102, having no relationship to or interest in the property prior to the transaction."

14. Page 6.

Following: line 9

Under: "Married Couple" on line 9

Insert: "Head of Household"

15. Page 7, line 9.

Strike: "subsection"

Insert: "subsections"

Following: "(1) (d)"

Insert: "and (1) (e)"

16. Page 7.

Following: line 11

Insert: "(d) (i) In determining the market value of the property described in subsection (1) (e), the department shall reduce the assessed value by 25% a year for each year the plant continues to be out of production until the market value is reduced to salvage value.

(ii) Upon commencement of production or an acquisition described in subsection (1) (e) (iii) (B), property described in subsection (1) (e) must remain at the preceding year's valuation for the succeeding 12 months. Following the end of the 12-month period, the property may be considered new or expanding industry as provided in Title 15, chapter 24, part 14."

17. Page 10.

Following: line 24

Insert: "Section 7. Section 15-6-143, MCA, is amended to read:



"15-6-143. (Temporary) Class thirteen property -- description -- taxable percentage. (1) Class thirteen property includes all timberland.

(2) (a) Timberland is contiguous land exceeding 15 acres in one ownership that is capable of producing timber that can be harvested in commercial quantity.

(b) Land may not be classified or valued as timberland if it is subdivided into parcels of land larger than 15 acres for commercial or residential purposes and has stated restrictions effectively prohibiting the harvesting of timber.

(3) Class thirteen property is taxed at the percentage rate ~~"P"~~ 4% of the combined appraised value of the standing timber and grazing productivity of the property.

~~(4) For taxable years beginning January 1, 1986, and thereafter, the taxable percentage rate "P" applicable to class thirteen property is  $30\% / B$ , where B is the certified statewide percentage increase to be determined by the department of revenue as provided in subsection (5). The taxable percentage rate "P" shall be rounded downward to the nearest 0.01% and shall be calculated by the department before July 1, 1986.~~

~~(5) (a) Prior to July 1, 1986, the department shall determine the certified statewide percentage increase for class thirteen property using the formula  $B = X/Y$ , where:~~

~~(i) X is the appraised value, as of January 1, 1986, of all property in the state, excluding use changes occurring during the preceding year, classified under class thirteen as class thirteen is described in this section; and~~

~~(ii) Y is the appraised value, as of January 1, 1985, of all property in the state that, as of January 1, 1986, would be classified under class thirteen as class thirteen is described in this section.~~

~~(b) B shall be rounded downward to the nearest 0.0001%.~~

~~(6) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate "P" until a valuation has been made as provided in 15-7-111. (Terminates January 1, 1991 acc. 10, Ch. 681, L. 1985.)"~~

Renumber: subsequent sections

18. Page 13.

Following: line 11

Insert: "Section 10. Section 15-6-155, MCA, is amended to read:

"15-6-155. Application for classification as class twenty nonproductive property -- local government approval required. (1) A person applying for classification of property as class twenty nonproductive property under 15-6-

134(1)(e) shall make an application to the department of revenue on a form provided by the department without cost.

(2) The department may not grant an application for classification of property as ~~class twenty~~ nonproductive property unless the governing body of the affected county or incorporated city or town approves the application by resolution, following due notice as defined in 76-15-103 and a public hearing, for its respective jurisdiction.

(3) The resolution provided for in subsection (2) must specify the property that the taxing jurisdiction approves for classification as ~~class twenty~~ nonproductive property under 15-6-134(1)(e).

(4) The property valuation reduction ~~granted to class twenty property under 15-6-150~~ applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by an approving governing body over which it has sole discretion. In no case may the property valuation reduction ~~for class twenty property~~ apply to levies or assessments required under Title 15, chapter 10; 20-9-331; 20-9-333; or otherwise required under state law."

Section 11. Section 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) Contiguous parcels of land totaling ~~20~~ 40 acres or more under one ownership shall be eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a commercial or industrial use.

(2) Contiguous or noncontiguous parcels of land totaling less than ~~20~~ 40 acres under one ownership that are actively devoted to agricultural use shall be eligible for valuation, assessment, and taxation as herein provided each year the parcels meet any of the following qualifications:

(a) if the parcels are less than 20 acres, they must produce and the owner or the owner's agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of livestock, poultry, field crops, fruit, and other animal and vegetable matter for food or fiber;

(b) if the parcels are 20 acres or larger and less than 40 acres, each parcel must produce the \$1,500 in annual gross income required in subsection (2)(a), plus an additional \$25 per acre or fraction of an acre that is in excess of 20 acres, in annual gross income from the sources specified in subsection (2)(a); or

(c) the parcels would have met the qualification set out in subsection (2)(a) or (2)(b) were it not for independent intervening causes of production failure beyond the control of the producer or marketing delay for economic

advantage, in which case proof of qualification in a prior year will suffice.

(3) Parcels that do not meet the qualifications set out in subsections (1) and (2) shall not be classified or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder in compliance with the Montana Subdivision and Platting Act.

(4) Land shall not be classified or valued as agricultural if it is subdivided with stated restrictions prohibiting its use for agricultural purposes.

(5) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise shall not be considered a bona fide agricultural operation.

(6) If land has been valued, assessed, and taxed as agricultural land in any year, it shall continue to be so valued, assessed, and taxed until the department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

(7) For the purposes of this part, growing timber is not an agricultural use. (Subsection (7) terminates January 1, 1991--sec. 10, Ch. 681, L. 1985.)"

Renumber: subsequent sections

19. Page 23, line 8.  
Following: "Repealer."  
Insert: "(1)"

20. Page 23, line 9.  
Following: "15-6-153,"  
Insert: "and"

21. Page 23, line 10.  
Strike: "and 15-6-155,"

22. Page 23.  
Following: line 10  
Insert: "(2) Section 15-6-155, MCA, is repealed."

23. Page 23.  
Following: line 20  
Insert: "NEW SECTION. Section 19. Termination. Subsections (1) (f) and (2) (d) of 15-6-134 terminate January 1, 1993."  
Renumber: subsequent section

24. Page 23, lines 21 and 22.

Strike: "DATE" on line 21

Insert: "DATES"

Following: "APPLICABILITY." on line 22

Insert: "(1)"

Strike: "[This"

Insert: "Except as provided in subsection (2), [this"

25. Page 23.

Following: line 25

Insert: "(2) [Section 17(2)] is effective January 1, 1993."

## HOUSE OF REPRESENTATIVES

## TAXATION COMMITTEE

ROLL CALL

DATE

4/12/91

| NAME                          | PRESENT | ABSENT | EXCUSED |
|-------------------------------|---------|--------|---------|
| REP. DAN HARRINGTON           | X       |        |         |
| REP. BEN COHEN, VICE-CHAIRMAN | X       |        |         |
| REP. BOB REAM, VICE-CHAIRMAN  | X       |        |         |
| REP. ED DOLEZAL               | X       |        |         |
| REP. JIM ELLIOTT              | X       |        |         |
| REP. ORVAL ELLISON            | X       |        |         |
| REP. RUSSELL FAGG             | X       |        |         |
| REP. MIKE FOSTER              | X       |        |         |
| REP. BOB GILBERT              | X       |        |         |
| REP. MARIAN HANSON            | X       |        |         |
| REP. DAVID HOFFMAN            | X       |        |         |
| REP. JIM MADISON              | X       |        |         |
| REP. ED MCCAFFREE             | X       |        |         |
| REP. BEA MCCARTHY             | X       |        |         |
| REP. TOM NELSON               | X       |        |         |
| REP. MARK O'KEEFE             | X       |        |         |
| REP. BOB RANEY                | X       |        |         |
| REP. TED SCHYE                | X       |        |         |
| REP. BARRY "SPOOK" STANG      | X       |        |         |
| REP. FRED THOMAS              | X       |        |         |
| REP. DAVE WANZENRIED          | X       |        |         |
|                               |         |        |         |
|                               |         |        |         |

EXHIBIT 24  
DATE 4/13/91  
HB SB 436

Amendments to Senate Bill No. 436  
Third Reading Copy

Requested by Property Tax Subcommittee  
For the Committee on Taxation

Prepared by Lee Heiman  
April 11, 1991

Nonproductive Mining Claims in Class Three and Nonproductive  
Property in Class Four.

1. Title, lines 9 and 10.  
Following: "CLAIMS)" on line 9  
Strike: ", "  
Insert: "BY COMBINING IT WITH CLASS THREE PROPERTY; ELIMINATING"  
Following: "ESTATE)" on line 10  
Strike: ", "

2. Title, line 11.  
Strike: "ALL"  
Insert: "BOTH"

3. Title, line 19.  
Following: "15-1-111,"  
Insert: "15-6-133,"

4. Title, line 20.  
Following: "15-6-145,"  
Insert: "15-6-155,"

5. Title, line 22.  
Following: "15-6-153,"  
Insert: "AND"

6. Title, lines 23 and 24.  
Strike: "AND 15-6-155," on line 23  
Strike: "DATE" on line 23  
Insert: "DATES,"  
Strike: "AND" on line 24  
Following: "DATE"  
Insert: ", AND A TERMINATION DATE"

7. Page 5.  
Following: line 3.  
Insert: "Section 3. Section 15-6-133, MCA, is amended to read:  
"15-6-133. Class three property -- description -- taxable  
percentage. (1) Class three property includes:

(a) agricultural land as defined in 15-7-202;  
(b) nonproductive patented mining claims outside the limits  
of an incorporated city or town held by an owner for the ultimate  
purpose of developing the mineral interests on the property. For  
the purposes of this subsection (1)(b), the following provisions  
apply:

(i) The claim may not include any property that is used for

residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for such other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which such improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(2) Class three property is taxed at the taxable percentage rate "P" of its productive capacity.

(3) Until July 1, 1986, the taxable percentage rate "P" for class three property is 30%.

(4) Prior to July 1, 1986, the department of revenue shall determine the taxable percentage rate "P" applicable to class three property for the revaluation cycle beginning January 1, 1986, as follows:

(a) The director of the department of revenue shall certify to the governor before July 1, 1986, the percentage by which the appraised value of all property in the state classified under class three as of January 1, 1986, has increased due to the revaluation conducted under 15-7-111. This figure is the "certified statewide percentage increase".

(b) The taxable value of property in class three is determined as a function of the certified statewide percentage increase in accordance with the table shown below.

(c) This table limits the statewide increase in taxable valuation resulting from reappraisal to 0%. In calculating the percentage increase, the department may not consider agricultural use changes during calendar year 1985.

(d) The taxable percentage must be calculated by interpolation to coincide with the nearest whole number certified statewide percentage increase from the following table:

| Certified Statewide<br>Percentage Increase | Class Three Taxable<br>Percentage "P" |
|--------------------------------------------|---------------------------------------|
| 0                                          | 30.00                                 |
| 10                                         | 27.27                                 |
| 20                                         | 25.00                                 |
| 30                                         | 23.08                                 |
| 40                                         | 21.43                                 |
| 50                                         | 20.00                                 |

(5) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate "P" until a revaluation has been made as provided in 15-7-111."

Renumber: subsequent sections

8. Page 5, line 24.

Strike: "."

Insert: ";

9. Page 5.

EXHIBIT 24  
DATE 4/12/91  
HB SB 436

Following: line 24

Insert: "(e) all real and personal property that:

- (i) is integrally related in a single working unit;
- (ii) is devoted exclusively to the processing of agricultural or timber products; and
- (iii) (A) has not been in production for 12 consecutive months or has been acquired in an arm's-length transaction by an unrelated person, including an acquisition in a foreclosure sale or bankruptcy proceeding; or  
(B) has been acquired in a foreclosure or bankruptcy proceeding by a person, as defined in 15-1-102, having no relationship to or interest in the property prior to the transaction."

10. Page 7.

Following: line 11

Insert: "(d)(i) In determining the market value of the property described in subsection (1)(e), the department shall reduce the assessed value by 25% a year for each year the plant continues to be out of production until the market value is reduced to salvage value.

(ii) Upon commencement of production or an acquisition described in subsection (1)(e)(iii)(B), property described in (1)(e) must remain at the preceding year's valuation for the succeeding 12 months. Following the end of the 12-month period, the property may be considered new or expanding industry as provided in Title 15, chapter 24, part 14."

11. Page 13.

Following: line 11

Insert: "Section 9. Section 15-6-155, MCA, is amended to read:

"15-6-155. Application for classification as ~~class~~ twenty nonproductive property -- local government approval required. (1) A person applying for classification of property as ~~class twenty nonproductive~~ property under 15-6-134(1)(e) shall make an application to the department of revenue on a form provided by the department without cost.

(2) The department may not grant an application for classification of property as ~~class twenty nonproductive~~ property unless the governing body of the affected county or incorporated city or town approves the application by resolution, following due notice as defined in 76-15-103 and a public hearing, for its respective jurisdiction.

(3) The resolution provided for in subsection (2) must specify the property that the taxing jurisdiction approves for classification as ~~class twenty nonproductive~~ property under 15-6-134(1)(e).

(4) The property valuation reduction ~~granted to class twenty property under 15-6-150~~ applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by an approving governing body over which it has sole discretion. In no case may the property valuation reduction ~~for class twenty property~~ apply to levies or assessments required under Title 15, chapter



10; 20-9-331; 20-9-333; or otherwise required under state law.""

Renumber: subsequent sections

12. Page 23, line 8.  
Following: "Repealer."  
Insert: "(1)"

13. Page 23, line 9.  
Following: "15-6-153,"  
Insert: "and"

14. Page 23, line 10.  
Strike: "and 15-6-155,"

15. Page 23.  
Following: line 10  
Insert: "(2) Section 15-6-155, MCA, is repealed."

16. Page 23.  
Following: line 20  
Insert: "NEW SECTION. Section 17. Termination. Subsections  
(1)(e) and (2)(d) of 15-6-134 terminate January 1, 1993."  
Renumber: subsequent section

17. Page 23, lines 21 and 22.  
Strike: "DATE" on line 21  
Insert: "DATES"  
Following: "APPLICABILITY." on line 22  
Insert: "(1)"  
Strike: "[This"  
Insert: "Except as provided in subsection (2), [this"

18. Page 23.  
Following: line 25  
Insert: "(2) [Section 15(2)] is effective January 1, 1993."

Amendments to Senate Bill 436  
3d. Reading Copy

EXHIBIT 25  
DATE 4/12/91  
HB SB 436

Prepared by the Department of Revenue  
April 11, 1991

The department is proposing these amendments to clarify the income computation to qualify for the low income property tax credit. Also, the department's proposed amendments extends the credit to eligible heads of households.

1. Title, line 8.  
Following: "PROPERTY;"  
Insert: "CLARIFYING THE COMPUTATION OF INCOME FOR PURPOSES OF THE LOW INCOME PROPERTY TAX CREDIT; PROVIDING ELIGIBLE HEADS OF HOUSEHOLDS MAY QUALIFY FOR THE LOW INCOME PROPERTY TAX CREDIT"
2. Page 5, line 18.  
Following: "including"  
Insert: "net business income or loss and"
3. Page 5, line 20.  
Following: "couple"  
Insert: "or a head of household,"
4. Page 6, line 9.  
Following "Married Couple"  
Insert: "or Head of Household"

26  
DATE 4/12/91  
HB SB 436

Amendments to Senate Bill No. 436  
Third Reading Copy

Requested by Property Tax Subcommittee  
For the Committee on Taxation

Prepared by Lee Heiman  
April 11, 1991

1. Title, line 18.

Following: "FACILITIES;"

Insert: "CHANGING THE CRITERIA FOR CLASSIFYING AGRICULTURAL LAND BY REQUIRING \$25 PER ACRE ANNUAL GROSS INCOME FROM AGRICULTURAL PRODUCTION FOR ACRES IN EXCESS OF 20 ACRES BUT LESS THAN 40 ACRES; CHANGING THE CRITERIA FOR CLASSIFYING TIMBERLAND TO PROHIBIT TIMBERLAND CLASSIFICATION IF THE PARCEL IS SUBDIVIDED LAND WITH RESTRICTIONS THAT EFFECTIVELY PROHIBIT TIMBER HARVESTING OR IF THE LAND HAS A RESIDENCE AND HAS YEAR-ROUND ACCESS;"

2. Title, line 19.

Following: "15-6-141,"

Insert: "15-6-143,"

3. Title, line 20.

Following: "15-6-145,"

Insert: "15-7-202,"

4. Page 10.

Following: line 24

Insert: "Section 6. Section 15-6-143, MCA, is amended to read:

"15-6-143. (Temporary) Class thirteen property -- description -- taxable percentage. (1) Class thirteen property includes all timberland.

(2) (a) Timberland is contiguous land exceeding 15 acres in one ownership that is capable of producing timber that can be harvested in commercial quantity.

(b) Land may not be classified or valued as timberland if:

(1) it is subdivided into parcels of land larger than 15 acres for commercial or residential purposes and has stated restrictions effectively prohibiting the harvesting of timber; or

(2) the land contains a residence with year-round access.

(3) Class thirteen property is taxed at the percentage rate "p" 4% of the combined appraised value of the standing timber and grazing productivity of the property.

(4) For taxable years beginning January 1, 1986, and thereafter, the taxable percentage rate "p" applicable to class thirteen property is 30%/B, where B is the certified statewide percentage increase to be determined by the department of revenue as provided in subsection (5). The taxable percentage rate "p" shall be rounded downward to the nearest 0.01% and shall be calculated by the department

~~before July 1, 1986.~~

~~(5) (a) Prior to July 1, 1986, the department shall determine the certified statewide percentage increase for class thirteen property using the formula  $B = X/Y$ , where:~~

~~(i) X is the appraised value, as of January 1, 1986, of all property in the state, excluding use changes occurring during the preceding year, classified under class thirteen as class thirteen is described in this section; and~~

~~(ii) Y is the appraised value, as of January 1, 1985, of all property in the state that, as of January 1, 1986, would be classified under class thirteen as class thirteen is described in this section.~~

~~(b) B shall be rounded downward to the nearest 0.0001%.~~

~~(6) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate "p" until a valuation has been made as provided in 15-7-111. (Terminates January 1, 1991 see. 10, Ch. 681, L. 1985.)"~~

Renumber: subsequent sections

5. Page 13.

Following: line 11

Insert: "Section 10. Section 15-7-202, MCA, is amended to read:

**"15-7-202. Eligibility of land for valuation as agricultural.** (1) Contiguous parcels of land totaling ~~20~~ 40 acres or more under one ownership shall be eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a commercial or industrial use.

(2) Contiguous or noncontiguous parcels of land totaling less than ~~20~~ 40 acres under one ownership that are actively devoted to agricultural use shall be eligible for valuation, assessment, and taxation as herein provided each year the parcels meet any of the following qualifications:

(a) if the parcels are less than 20 acres, they must produce and the owner or the owner's agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of livestock, poultry, field crops, fruit, and other animal and vegetable matter for food or fiber;

(b) if the parcels are 20 acres or larger and less than 40 acres, each parcel must produce the \$1,500 in annual gross income required in subsection (2)(a), plus an additional \$25 per acre or fraction of an acre that is in excess of 20 acres, in annual gross income from the sources specified in subsection (2)(a); or

(b)(c) the parcels would have met the qualification set out in subsection (2)(a) or (2)(b) were it not for independent intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(3) Parcels that do not meet the qualifications set out in subsections (1) and (2) shall not be classified or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder

in compliance with the Montana Subdivision and Platting Act.

(4) Land shall not be classified or valued as agricultural if it is subdivided with stated restrictions prohibiting its use for agricultural purposes.

(5) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise shall not be considered a bona fide agricultural operation.

(6) If land has been valued, assessed, and taxed as agricultural land in any year, it shall continue to be so valued, assessed, and taxed until the department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

(7) For the purposes of this part, growing timber is not an agricultural use. (Subsection (7) terminates January 1, 1991--sec. 10, Ch. 681, L. 1985.)"

Renumber: subsequent sections

EXHIBIT 27  
DATE 4/13/91  
HB SB 436

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 4/12 BILL NO. SB 436 NUMBER 1  
MOTION: Adopt amendment #4

| NAME                          | AYE | NO |
|-------------------------------|-----|----|
| REP. BEN COHEN, VICE-CHAIRMAN | X   |    |
| REP. ED DOLEZAL               | X   |    |
| REP. JIM ELLIOTT              |     | X  |
| REP. ORVAL ELLISON            | X   |    |
| REP. RUSSELL FAGG             | X   |    |
| REP. MIKE FOSTER              |     | X  |
| REP. BOB GILBERT              |     | X  |
| REP. MARIAN HANSON            |     | X  |
| REP. DAVID HOFFMAN            | X   |    |
| REP. JIM MADISON              | X   |    |
| REP. ED MCCAFFREE             | X   |    |
| REP. BEA MCCARTHY             | X   |    |
| REP. TOM NELSON               |     | X  |
| REP. MARK O'KEEFE             | X   |    |
| REP. BOB RANEY                | X   |    |
| REP. BOB REAM, VICE-CHAIRMAN  |     | X  |
| REP. TED SCHYE                |     | X  |
| REP. BARRY "SPOOK" STANG      |     | X  |
| REP. FRED THOMAS              | X   |    |
| REP. DAVE WANZENRIED          | X   |    |
| REP. DAN HARRINGTON, CHAIRMAN | X   |    |
| TOTAL                         | 13  | 8  |

EXHIBIT 28  
DATE 4/12/91  
HB SB 436

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 4/12/91 BILL NO. SB 436 NUMBER 2

MOTION: ADOPT AMENDMENT #5

| NAME                          | AYE | NO |
|-------------------------------|-----|----|
| REP. BEN COHEN, VICE-CHAIRMAN | X   |    |
| REP. ED DOLEZAL               |     | X  |
| REP. JIM ELLIOTT              |     | X  |
| REP. ORVAL ELLISON            |     | X  |
| REP. RUSSELL FAGG             | X   |    |
| REP. MIKE FOSTER              |     | X  |
| REP. BOB GILBERT              |     | X  |
| REP. MARIAN HANSON            |     | X  |
| REP. DAVID HOFFMAN            | X   |    |
| REP. JIM MADISON              | X   |    |
| REP. ED MCCAFFREE             | X   |    |
| REP. BEA MCCARTHY             | X   |    |
| REP. TOM NELSON               |     | X  |
| REP. MARK O'KEEFE             | X   |    |
| REP. BOB RANEY                | X   |    |
| REP. BOB REAM, VICE-CHAIRMAN  |     | X  |
| REP. TED SCHYE                | X   |    |
| REP. BARRY "SPOOK" STANG      |     | X  |
| REP. FRED THOMAS              | X   |    |
| REP. DAVE WANZENRIED          | X   |    |
| REP. DAN HARRINGTON, CHAIRMAN | X   |    |
| TOTAL                         | 12  | 9  |

EXHIBIT 29  
DATE 4/12/91  
HB SB 436

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 4/12/91 BILL NO. SB 436 NUMBER 3

MOTION: Be concurred in as amended.

| NAME                          | AYE | NO |
|-------------------------------|-----|----|
| REP. BEN COHEN, VICE-CHAIRMAN | X   |    |
| REP. ED DOLEZAL               | X   |    |
| REP. JIM ELLIOTT              |     | X  |
| REP. ORVAL ELLISON            | X   |    |
| REP. RUSSELL FAGG             | X   |    |
| REP. MIKE FOSTER              |     | X  |
| REP. BOB GILBERT              |     | X  |
| REP. MARIAN HANSON            |     | X  |
| REP. DAVID HOFFMAN            | X   |    |
| REP. JIM MADISON              | X   |    |
| REP. ED MCCAFFREE             | X   |    |
| REP. BEA MCCARTHY             | X   |    |
| REP. TOM NELSON               |     | X  |
| REP. MARK O'KEEFE             | X   |    |
| REP. BOB RANEY                | X   |    |
| REP. BOB REAM, VICE-CHAIRMAN  |     | X  |
| REP. TED SCHYE                | X   |    |
| REP. BARRY "SPOOK" STANG      |     | X  |
| REP. FRED THOMAS              | X   |    |
| REP. DAVE WANZENRIED          | X   |    |
| REP. DAN HARRINGTON, CHAIRMAN | X   |    |
| TOTAL                         | 14  | 7  |